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# General Public School Laws of Alabama 1908



ISSUED BY  
HARRY C. GUNNELS  
SUPERINTENDENT OF EDUCATION



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GENERAL  
PUBLIC SCHOOL LAWS  
OF  
ALABAMA  
1908



ISSUED BY  
HARRY C. GUNNELS  
Superintendent of Education

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Superintendent of Education.

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Chief Clerk, Sec-Treas. District  
Agricultural Schools.

W. C. SWANSON and JAMES N. GUNNELS,  
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# PUBLIC SCHOOL LAWS OF ALABAMA.

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## ARTICLE 1.

### PUBLIC SCHOOL FUND.

1678. (3539) (943) *Appropriations for public schools.*—For the maintenance of a system of public schools of the State the following sums of money are hereby appropriated for every scholastic year, to-wti:

1. The annual interest at six per cent on all sums of money which have heretofore been or which may hereafter be received by the State, as the proceeds of sales of lands granted or entrusted by the United States to the State, or to the several townships thereof, valueless sixteenth section fund, and school indemnity fund for school purposes.

2. The annual interest at four per cent on that part of the surplus revenue of the United States deposited with the State under the act of congress approved June 23, 1836.

3. All annual rents, incomes, and profits or interests arising from the proceeds of sales of all lands as may hereafter be given by the United States, or by this State, or by individuals, for the support of the public schools of the State.

4. All such sums as may accrue to the State as escheats the same to be applied to the support of the public schools during the scholastic year next ensuing the receipt in the State treasury.

5. The net amount of poll tax that may be collected in the State; poll tax collected in every county to be retained therein for the support of the public schools thereof and distributed and disbursed as provided in this chapter.

6. Licenses which are by law required to be paid into the school fund of any county to be promptly paid by

the judge of probate or other person collecting the same to the county superintendent of education and to be expended for the benefit of the public schools of each county.

7. The further sum of three hundred and fifty thousand dollars annually for every scholastic year.

1679. (3540) (944) *When appropriations accrue, placed to credit of educational fund.*—All such appropriations, except the poll tax, shall accrue to the educational fund on the first day of October, in each year; and on that day the State auditor shall place to the credit of that fund, on the books in his office, all such amounts as accrue thereto from the sources in this article mentioned, except the poll tax, for the scholastic year beginning on that day.

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## ARTICLE 2.

### OFFICERS AND BOARDS OF PUBLIC SCHOOLS.

1680. (3541) (945) *Officers and boards of administration of public schools.*—For the administration and government of public schools in this State, there are the following officers and boards of education:

1. The superintendent of education.
  2. A county superintendent of education in each county.
  3. Three district trustees in each school district.
  4. One county board of education; constituted as hereinafter provided.
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## ARTICLE 3.

### SUPERINTENDENT OF EDUCATION.

1681. (3542) (946) *Term of office; salary.*—“The Superintendent of Education” holds office for the term

of four years from the time of his installation in office, and until his successor is elected and qualified, and shall receive a salary of three thousand dollars per annum, payable in monthly installments, on the last day of each month, and shall not be eligible as his own successor.

1682. (3543 (947) *Oath of office and bond*.—Before entering upon the duties of his office, he shall take oath of office prescribed by the constitution, and shall also give bond, with sureties to be approved by the governor, in the sum of fifteen thousand dollars, conditioned faithfully to discharge the duties of his office so long as he shall remain therein, or perform any of the duties thereof; and such bond shall be fined in the office of the secretary of state.

1683. (3544) (948) *Office and books, papers and records*.—He shall have an office at the capitol of the State, where the bonds, papers and records of his office shall be kept, and where he shall give attendance when not absent on official business; and it shall be the privilege of all persons interested to have access, at all proper hours, to the books, papers, and records of the office.

1684. (3545) (949) *Clerks and their salaries*.—He is authorized to employ a chief clerk, two bookkeepers, and a stenographer for service in his office; and such clerks shall be allowed salaries as follows: The chief clerk, eighteen hundred dollars per year; the two bookkeepers, fifteen hundred dollars per year each; the stenographer, seven hundred and fifty dollars per year, to be paid as the salaries of other department clerks are paid.

1685. (3546) (950) *Duties of the superintendent of education*.—The duties of the superintendent of education shall be as follows:

1. He shall devote his time to the care and improvement of the common schools, and the promotion of public education, and shall exercise a general supervision

over all the educational interests of the State; and to this end he shall have power to require from the county superintendent of education, township and district trustees of public schools, and all other school officers, all such reports and information relating to the educational fund, or the condition of the schools and the management thereof, as he may deem important, or as may be prescribed by law; and he may remove from office any such officer, except the county superintendent, for failure to make such report, give such information, or discharge any other official duty.

2. He shall annually, as far as practicable, visit every county in the State for the purpose of inspecting the schools and their management, the accounts of ty superintendents of education, and other school officers, and for diffusing as widely as possible, by personal address and personal communication, information as to the importance of public schools and the best method for their management; and he shall encourage and assist at organizing and conducting teachers' and superintendents' institutes.

3. He shall make provisions for instructing all pupils in all schools and colleges supported, in whole or in part, by public money, or under State control, in hygiene and physiology, with special reference to the effects of alcoholic drinks, stimulants, and narcotics upon the human system.

4. He shall make provision for instructing all pupils in all schools and colleges supported, in whole or in part, by public moneys, or under State control, in the constitution of the United States and the constitution of the State of Alabama.

5. He shall annually apportion the public school fund to the several counties, and the county board of education shall apportion the same to the school districts as required by section 256 of constitution, and shall see to the proper disbursement of the same; and to this end he shall keep an accurate account with all officers who may be custodians or disbursers of th school fund, or any part thereof.

6. He shall prepare all forms, and have printed and distributed all such blanks as may be necessary, or as may be required by law, in the administration of the public school system.

7. He shall furnish the county superintendents and other school officers all necessary books for keeping their accounts and records, to be and remain public property; and he shall prescribe a uniform system of keeping such accounts and records.

8. He shall take receipts for all such books so furnished by him to school officers, and such officers shall take good care thereof, and turn them over to their successors in office.

9. He shall keep a debtor and creditor account with each township, or other school district, in the State, of all funds accruing thereto for educational purposes.

10. He shall keep an accurate account of the capital of all sixteenth-section or other trust funds, to which each township or school district may be entitled, showing whence and when such funds were derived.

11. He shall preserve in his office all bonds of school officers and others required to be filed therein.

12. He shall cause suits to be instituted and prosecuted against all defaulters to the educational fund, and for this purpose may employ attorneys; but he shall not have power to contract to pay such attorneys out of the educational fund more than ten per cent of the amount recovered by them in such suits; and of such fund he may pay such lawful costs as may be taxed against him as superintendent of education, in case he is cast in any of such suits.

13. He shall, by correspondence, exchange of official reports, and other proper means, elicit information relative to the system of public education in other States and countries, and disseminate all useful knowledge regarding the same among the county superintendents and other school officers in the State.

14. He shall collect in his office such school books, apparatus, maps, charts, and specimens of improved school furniture as can be obtained without expense to the State.

15. He shall prepare and have printed in pamphlet form by the public printer all laws, rules, and regulations pertaining to the public school system of the State, including therein the constitution of the United States and the constitution of the State of Alabama, and cause the same to be distributed among the county superintendents of education, and other officers connected with the school system, for the information of those interested in the educational interests of the State.

16. He shall hold, or cause to be held, within each congressional district, one or more teachers' institutes, to be conducted by a teacher experienced in and familiar with the most improved methods of instruction, for a term of one week or more during the summer months of each year; and for such purpose may, from time to time, certify to the State auditor the amount, not exceeding twelve hundred dollars in any one year, necessary to defray the expenses of employing teachers to conduct such institutes and instruct the teachers who attend them, and upon such certificate it shall be the duty of the State auditor to draw his warrant upon the State treasurer for such sum or sums in favor of the superintendent of education as may remain unapportioned in the treasury at the time. And such sums must be disbursed so as to secure the greatest good to the largest number of teachers in the common schools, and it shall be the duty of the superintendent of education to take vouchers therefor to be kept on file in his office, and to make an itemized statement in his quadrennial report as to how and to whom said money has been disbursed.

17. He shall perform such other duties as are, or may be, prescribed by law.

1686. (3547) (951) *Report to governor; contents.*—He shall also, annually, on or before the first day of December, report to the governor in writing—

1. A brief history of his labors.
2. An abstract of the reports received by him from the county superintendents of education, exhibiting the condition of the public schools.

3. Estimates and accounts of expenditures of school money.

4. An itemized statement showing how the contingent fund of his department and all other special funds or appropriations under his control have been disposed of.

5. Such recommendations as he may desire to make for the improvement of the school system, and the care and increase of the educational fund.

6. All such other matters relating to his office and to the public schools as he shall deem expedient to communicate.

1687. (3548) (952) *Report to be printed and distributed.*—The governor shall, when such report is laid before him, direct the superintendent of education to have printed in the same manner and upon the same conditions as other printing is done, during the recess of the legislature, a sufficient number of copies of the report to supply the county superintendents and district trustees of public schools, and other school officers, and for the usual exchange with other States, and with the leading cities of the United States; and it shall be the duty of the superintendent of education to distribute the same as indicated in this section.

1688. (3549) (953) *Vacancy filled by governor; term, etc., of appointee.*—If the office of superintendent of education should at any time become vacant, by death, resignation, or otherwise, the governor shall appoint a suitable person to fill such office for the unexpired term; and such appointee shall give bond and qualify in the same manner as if he had been elected for a full term.

## ARTICLE 4.

## TOWNSHIPS ABOLISHED.

1689. *Township abolished; public schools re-districted.*—Township lines for school purposes are abolished; provided the inhabitants of no township shall be deprived of the sixteenth section or any fund arising therefrom, or of selling and leasing such lands as provided by law.

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## ARTICLE 5.

## TOWNSHIPS AND SCHOOL DISTRICTS INCORPORATED.

1690. (3624) (1024) (963) (576) (502) *Incorporation of townships.*—The inhabitants of each township in the State are incorporated by the name of "Township \_\_\_\_\_, of range \_\_\_\_\_," according to the number of the surveys of the United States, and the inhabitants of each school district are incorporated by the name and number by which it is known or designated.

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## ARTICLE 6.

## SCHOOL DISTRICTS AND RE-DISTRICTING BOARDS; HOW CREATED.

1691. *District lines and boundaries; how changed.*—The lines and boundaries of any public school district heretofore established by general law or any special law may be changed, or a new public school district may be created, by the vote of a majority of the county board of education, upon application to said board, and after notice of said application and of the time and place of hearing the same has been given by publication for three successive weeks in some newspaper published in said county, if a newspaper be published therein, and by post-

ing written notices in at least three public places in the territory to be affected by said change. Said publication and notice shall be made and given by the county superintendent of education, and the person or persons making the application for such change shall deposit with him a sum of money sufficient to pay the expenses of said publication and notices, such sum of money to be expended by him for that purpose. And whenever the boundaries of any public school district are changed by the county board of education or a new public school district shall be created by said board under this section, the county superintendent of education, within ten days after such change, or the creation of such district, shall file in the office of the judge of probate of his county, an accurate description of such change, or of the district so created, and the judge of probate shall record the same in the book to be kept by him. The change of the lines or boundaries of any public school district or the creation of a new district under this section may also be made by adding to or taking from any district composed of an incorporated city or town such contiguous territory as such board may deem best.

1692. *Counties and districts not included within article.*—The provisions of this article shall not apply to any county heretofore districeted by authority of a special law, and which has a special levy from the county for the support of the public schools therein.

1693. *Incorporated cities and towns separate school school districts.*—Each incorporated city or town in the State is a separate school district.

1694. *School districts not affected by county lines.*—Any school district which, by the creation of new counties or the change of county lines, shall lie in two or more counties, shall in no wise be repealed by the creation of said new counties or the change of county lines.

1695. *Funds; how paid.*—The superintendent of education of the counties in which said school districts shall

lie, shall pay over to the treasurer of said school boards in said school districts all the funds or money coming into their hands due said school districts.

1696. *Repeal.*—All laws as to school districts which, by the creation of new counties or the change of county lines, lie in two or more counties, which are in conflict with the provisions of this article, are repealed.

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#### ARTICLE 7.

##### DISTRICT TRUSTEES; ELECTION, POWERS, AND DUTIES.

1697. (3560) (966) *District trustees; election of term of office.*—On the first Saturday in July, 1908, and each fourth year thereafter, at an hour to be fixed and appointed by the county superintendent of education of each county, and to be uniform throughout the county, after notice has been given thereof by the county superintendent of education by publication in a newspaper published in said county for three successive weeks (the expenses to be paid out of the countytreasury), and if there be no newspaper published in the county, then by written notices sent to each of the chairmen of the boards of district trustees in such county, the qualified electors of each public school district shall meet at the district school house and elect from among the freeholders and householders who can read and write residing in such districts, a local board of three district trustees whose duty shall be as hereinafter provided. The chairman, or, in his absence, a member of the board of district trustees shall preside over such meeting and shall certify to the county superintendent of education the result of the election held thereat, which certificate must show the names of the district trustees elected at said meeting for the district, and said certificate must be filed with the county superintendent of education within five days after such meeting and election; provided, however, that in the event

the chairman or other member of such board of district trustees should not be present at the time fixed for said meeting, or, being present, should willfully fail or refuse to call said meeting to order or to preside over the same, then the qualified electors of such district assembled may choose from among their number a person to preside over such meeting, and such person shall be fully authorized to so preside and to make the certificate of election of district trustees had at such meeting and to file the same as herein provided. Any qualified voter of such district may, within ten days after the holding of such election, contest the election of any person or persons shown to be elected by said certificate, by filing a contest in writing with the county superintendent of education and addressed to the county board of education, stating therein the ground for such contest, and it shall be the duty of the county board of education, upon notice to them by the county superintendent of education of the filing of such contest, to meet and hear and determine such contests within twenty days from the holding of the election. The county superintendent of education, upon the filing of all such contests, shall immediately notify in writing such person whose election is contested, of the filing of the same and of the date and place where such contest shall be heard. Such district trustees shall hold office for the term of four years from the time of their election and until their successors are elected and qualified.

1698. *District trustees; organization of.*—The trustees provided for in the preceding section shall within ten days after their election or appointment meet at the public school district schoolhouse, or some place more convenient to all concerned, and shall organize by electing one of their number chairman and another secretary.

1699. (3562) (968) *Duties of district trustees.*—The district trustees shall—

1. Make enumeration of children within school age as provided by law.

2. Care for all school property.
3. Nominate teachers for their school districts, such nomination to be subject to the approval of the county board of education, the contract to teach to be made with said county board of education.
4. Visit the schools within their respective districts, observe the management of the same, and make quarterly reports of the condition of such schools to the county superintendent of education.
5. Perform such other duties as may be required by the county board of education hereinafter provided for. If said district trustees shall fail or refuse for a period of thirty days after required in writing by the county board of education to nominate and submit for approval a teacher or teachers for their district, or for such period after so required in writing, shall fail or refuse to perform any of the duties required of them under this section, the county board of education shall be authorized to perform any such duties, including the nomination and employment of teachers in lieu of said district trustees, wherein they have failed to perform them.

*1700. Graded schools increase number of trustees.—* Whenever there has been established in any school district, a system of graded schools free to the children of school age, within such district for a period of not less than eight months in each year, the electors of such district may increase the number of the district trustees to five, and assume entire control of the public schools therein; provided, the trustees of such districts shall make all reports required by law to the county board of education.

*1701. Municipal school district; board of education and trustees for.—* In all municipalities where there is a board of education, the board shall have full charge and control of such separate school district, and shall have and exercise all the powers and authority conferred by law upon township trustees. In municipalities where there is no such board of education, the powers and duties of trustees shall devolve upon and be per-

formed by the mayor and board of aldermen, or other governing body, of said municipality, and all funds due such separate school districts shall be paid to the board of education of such separate school district, or to the mayor, board of aldermen, or other governing body of such municipality, where there is no such board of education, by the county superintendent of education, as required by law.

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## ARTICLE 8.

### COUNTY SUPERINTENDENT OF EDUCATION.

1702. (3550) (954) *One elected for each county.*—A county superintendent of education for every county shall be elected on the first Tuesday after the first Monday in November, 1908, and every fourth year thereafter, and all local, or special laws in conflict herewith are expressly repealed.

1703. (3551) (955) *Term of office; removal.*—The term of office of county superintendents shall commence on the first day of October next after their election ,and shall hold office for four years and until their successors shall qualify, and shall not be required to file their official bonds until fifteen days before the beginning of the term of office, and the terms of all county superintendents now in office are hereby extended to the first day of October, 1909.

1704. (3552) (956) *Oath of office and bond.*—Every county superintendent of education, before entering upon the duties of his office, must take the oath of office prescribed by the constitution, and give bond in an amount to be fixed by the superintendent of education, but in no case to be less than double the probable amount of money that may be in his hands at any time, with good and sufficient sureties, and payable and conditioned as official bands of other public officers.

1705. (3553) (957) *Approval and record of bond.*—Such bond must be approved by, and, with the oath of office, must be filed and recorded in the office of the judge of probate of the county; and a certified copy of the bond must also be filed in the office of the superintendent of education for his approval.

1706. (3554) (958) *New or additional bond; effect of notice to give.*—The superintendent of education shall require of any county superintendent of education a new or additional bond, in the same, or a different amount, as that of the original bond, whenever he shall find it necessary for the protection of the educational fund of the county; and no county superintendent of education, after receiving notice to give such new or additional bond, shall continue in the discharge of the duties of his office until such new or additional bond is given.

1707. (3556) (960) *His duties.*—The duties of the county superintendent of education shall be as follows:

1. He shall have an office at the county site of his county, where he must, on the first Saturday of each month, from the beginning of the scholastic year until the close of the public schools for that year, be present to transact business with the officers and teachers of public schools.

2. He must receive and take charge of any money, funds, property, or proceeds of any character, raised in his county by county taxation, or which may accrue to him or to the county from any gift, grant, bequest, devise, endowment, or otherwise, to be used in aid of, or in connection with, money apportioned to his county from the educational fund, and shall faithfully keep the same, separate and apart from any other funds or property whatsoever; and after the county board of education shall have apportioned the public funds of the county, as in this code provided, he shall, by and with the consent of the county board of education, distribute and pay out all money raised in accordance with this subdivision; but all money, raised by local taxation in

any school district or incorporated city or town, shall be expended for the benefit of the district, city, or town in which the money is raised, and by such persons, and in such manner, as are authorized by the laws in force for the control and government of public schools in such district, city or town.

3. He shall examine into the condition of all school funds of his county, including the sixteenth-section fund, and sixteenth section lands unsold in his county; and he is authorized and required in the name of the State for the use of the township, to bring all necessary suits for the recovery of the possession of such lands, or against trespassers thereon.

4. He shall, as soon as he receives the annual apportionment of the educational fund to his county and the same has been apportioned among the districts by the county board of education, notify the district trustees of each district of the amount apportioned to each separate school district.

5. He shall enter in a book or books, kept for that purpose, the exact amount and date of all moneys received and paid out by him on account of the educational fund of his county, showing by whom or to whom paid, and for what purpose, and also the amount of the educational fund apportioned to and distributed in each district for each race; and such books shall be open to the inspection of all persons interested.

6. He shall, on or before the fifteenth day of October of each year, forward to the superintendent of education, on blanks to be furnished him by the latter, an annual report of the public schools of his county for the preceding year, which shall set forth (1) the amount of school money received by him from all sources to the end of the year, specifying how much was received from each source; (2) how much has been disbursed by him during such year, for what purpose, and the names of teachers to whom money has been paid, the time they taught, and the total amount paid to each teacher; (3) the amount of funds then in hand for each township or school district in his county; and (4) the manner in

which, and the extent to which, he has discharged the duties required by law to be performed by him.

7. He must, monthly, on the first Saturday in each month of each year, or as soon thereafter as practicable, pay the teachers of the public schools, upon the certificate of the trustees of the district in which the school was taught; and in counties in which separate districts have been established by special laws, he shall pay over to the officers authorized to receive the same their proportionate shares of the school revenues at the times above designated.

1708. (3557) (963) *Forfeiture for failure to make annual reports.*—If any county superintendent shall willfully fail to make out and forward to the superintendent of education any annual report required by this article, within ten days after the time it should be made, he shall be liable to a forfeiture of his commission, to be declared by the superintendent of education and to removal from office.

1709. (3558) (962) *Books and accounts liable to examination.*—The books, accounts, and vouchers of the county superintendent of education may be examined at any time by the superintendent of education in person or by duly authorized agent.

1710. (3559) (965) *Vacancies, how filled; term, etc., of appointees.*—The superintendent of education shall fill all vacancies in the office of county superintendent of education, by appointment; and such appointee shall hold during the unexpired term, and until his successor qualifies, and shall give bond and qualify as is required by law.

1711. (3555) (959) *Compensation of county superintendents of education.*—For their compensation, they shall receive four per cent on all State public moneys legally disbursed by them, not to exceed the sum of eighteen hundred dollars for any calendar year. For all

moneys received and disbursed by them, the county superintendents shall account to the superintendent of education, as now provided by law.

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#### ARTICLE 9.

##### COUNTY BOARDS OF EDUCATION; ELECTION, POWERS, AND DUTIES OF.

1712. *County boards of trustees.*—The chairman of the several boards of district trustees shall meet at the court house of their respective counties, the second Saturday in August after their election, and shall elect four county school trustees, who shall hold office for the term of four years from the date of their election and until their successors are elected and qualified. Before entering upon the duties of office, they shall take the oath of office prescribed by the constitution of the State.

1713. (3583) (989) *County board of education.*—The county superintendent of education and said four county trustees shall constitute the county board of education within their respective counties. The county superintendent of education shall be the chief executive officer of said county board of education and shall see that all rules, regulations, and orders of said county board are enforced; provided, that no district trustee shall, during his term of office, be eligible to election as a county trustee, nor shall more than one teacher actively engaged in teaching in the public schools in this State be a member of said county board of education at one and the same time. The court of county commissioners, or board of revenue, of each county, shall provide, at the expense of the county, all necessary blank books, stationery, and postage for the use of the county boards of education of the county.

1714. (3583) (989) *Vacancies in boards of education; how filled.*—Any vacancy on the county board of education shall be filled by the superintendent of education of the State by and with the approval and consent of the governor, for the unexpired term, and any vacancy on a board of trustees shall be filled for the unexpired term by the county board of education.

1715. *Powers and duties of county boards of trustees.*—The county board of education shall have entire control of the public schools within their respective counties, unless otherwise provided by law. They shall make rules and regulations for the government of the schools, see that the teachers perform their duties and exercise such powers, consistent with the law, as in their judgment will best subserve the cause of education. The board shall have the right to acquire, purchase, lease, receive, hold, transmit, and convey the title to real and personal property for school purposes, except where otherwise provided. Said board of education shall, by and in the name of the county board of education, sue and contract; all contracts to be made after resolution adopted by said board, and spread on its minutes and signed by the president and secretary, and all process shall be executed on the secretary of said board.

1716. *Pay or compensation of county board of education.*—Each of the four members of the county board of education shall receive from the public school funds of the county, to be disbursed by the county superintendent of education, two dollars a day for each day's work devoted by him to the public schools; provided, he shall not receive pay for more than ten days in any one year. The county superintendent of education shall apportion among the several school districts the amount of compensation to be paid to the members of the county board of education, and account for the same in like manner as provided for the compensation paid to teachers in such districts.

## ARTICLE 10.

## ENUMERATION OR CENSUS OF SCHOOL CHILDREN.

1717. *Census or enumeration of school children.*—The district trustees of each public school district in this State, whether existing under general law or created by special or local law, and the boards of education or school trustees, or other governing board or body, of any public school district lying in any incorporated town or city in this State, shall cause to be made during the month of July, 1908, and every even-numbered year thereafter, an enumeration of all the children within school age residing in each of said several school districts, and to that end said trustees, or boards of education, or other governing board or body, shall select and appoint a proper and competent person to make such enumeration, on blanks to be prepared and provided by the superintendent of education of the State, and such person shall make a report of such enumeration under oath to the county superintendent of education of his county by the 15th day of August next succeeding the time of the taking of said census. The county superintendent shall then make a written verified report by districts to the superintendent of education of the State.

1718. *Compensation of enumerators.*—The court of county commissioners, or board of revenue, or other court of like jurisdiction for each county, shall fix the compensation of each of said persons taking such school census in each district, no part of which is situated in any incorporated town or city, and shall order the same paid to such persons out of the general funds in the county treasury of the county wherein such enumerations are made. and the mayor and city council, or other governing body, of any municipality wherein a public school district is situated, in whole or in part, shall fix the compensation of the person who shall take the school census in such district, and shall order the same paid out of the treasury of such town or city.

## ARTICLE 11.

## TEACHERS; QUALIFICATIONS, LICENSE, POWERS, AND DUTIES OF.

1719. *Board of examiners.*—There shall be constituted a State board of examiners, to be composed of the superintendent of education, who shall be the president of the board, and two other persons, to be appointed by him, who shall be teachers of extensive experience and recognized ability. The term of office of the said board shall be co-equal with that of the superintendent of education.

1720. *Meetings of examiners.*—The said State board of examiners shall meet during the months of November and May of each year, and shall prepare questions for the examination of teachers.

1721. *List of questions prepared.*—The president of the State board of examiners shall cause lists of questions so prepared to be printed, and shall, on or before the fifteenth day of December and June of each year, send to each person appointed to conduct examinations in the counties of the State a sufficient number of the lists; the questions so sent shall be inclosed in a sealed envelope, on the back of which shall be plainly written or printed the words, "Questions for the examination of teachers." The seal of said envelope shall not be broken except as hereinafter provided.

1722. *Times for examination of teachers.*—The first Mondays in January and July are appointed for the examination of teachers. The examination may be continued from day to day for three consecutive days, if such continuance shall be necessary for the completion of the work of examination, but no examination shall be begun on any other day than the first day mentioned in this section. No examination shall be held at any other time, except as otherwise provided.

1723. *Special examinations.*—The State board of examiners may hold, at the department of education in Montgomery, special examinations for the benefit of persons who are prevented from taking the regular examination by sickness, absence from the State, or other unavoidable cause. Each person taking a special examination shall pay to the State board of examiners a fee of five dollars. Special examinations shall be equal in all respects to the regular examinations. The superintendent of education may also, at his discretion, allow examinations in May and October at any Alabama normal school which requests it for applicants to teach in the public schools; the expense of the examination to be borne by the applicants.

1724. *Examinations in counties; by whom and how conducted.*—The regular examination shall be conducted in each county by the county superintendent of education, unless for good and substantial reasons the State board of examiners shall deem it best to select for this service another person appointed for that purpose by the State board of examiners, and if he shall be unable, by reason of sickness or other unavoidable necessity to conduct the same, then by some other competent person appointed for that purpose by him. Said examination shall begin at 10 o'clock a. m. of the day appointed, at which hour the person appointed to conduct the examination shall, in the presence of the applicants for examination, break the seal of the envelope containing the lists of questions, and shall distribute the questions among the applicants. All applicants shall undergo the examination in the same room, or in sight of the person appointed to conduct such examination.

1725. *Examination fees.*—Each applicant for examination shall, before entering upon the examination, deposit with the person appointed to conduct the examination an examination fee as follows: An applicant for a third-grade certificate, a fee of one dollar; an applicant for a second-grade certificate, a fee of one and one-half dollars; an applicant for a first-grade certificate, a

fee of two dollars; an applicant for a life certificate, a fee of three dollars. The fees received from the examination of teachers at regular examinations shall be paid into the State treasury to the credit of the educational fund, and the State auditor shall, on the requisition of the superintendent of education, issue warrants on the State treasurer, to be paid out of the educational fund, for the purpose of carrying out the provisions of this article, such as the payment of expenses for postage, for expressage, for clerk hire, for State board of examiners only, for the per diem of the State board of examiners, for paying county conductors, and for other incidental expenses incurred in carrying out the provisions of this article.

1726. *Compensation of State board of examiners.*—The appointed members of the State board shall receive five dollars per day, including Sundays, for the time they are engaged in conducting the examination of teachers under this article.

1727. *Compensation of examiners.*—The county superintendent or person appointed to conduct the examination in each county shall receive ten dollars for his services in conducting each examination.

1728. *Teachers shall not receive assistance on examination.*—Teachers on examination shall not be permitted to sit near enough to one another to read the other's papers, and no teacher on examination shall receive any assistance from any person, or by reference to any book, map, or chart, or from any other source, and no person shall be licensed to teach who shall endeavor to procure any such assistance.

1729. *Statement signed by teachers.*—Each teacher so examined shall, upon the completion of his examination, sign a statement that he or she has not received any assistance in said examination from any source; which statement shall be kept on file by the county superintendent of education.

1730. *Applicant must be of good moral character.*—Unless the applicant is known to the person appointed to conduct the examination to be of good moral character, or shall make satisfactory proof of the same, in writing, he or she shall not be admitted to the examination.

1731. *Habitual use of profane language or intoxicants.*—Any one who habitually uses profane language or intoxicants shall be deemed of immoral character.

1732. (3576) (983) *Grades of certificates.*—There shall be three grades of teachers' certificates, besides the life certificate, hereinafter provided, to be known as certificates of the first, second, and third grades, each of which must show the branches in which the holder has been examined, and his general average.

1733. (3576) (983) *Percentage and certificate required.*—In no case shall an applicant for a certificate receive the same who fails to answer fifty per cent of the questions propounded in any branch, and whose general average is below seventy-five per cent. Every teacher in the public schools must obtain a certificate prior to his employment.

1734. (3577) (984) *Branches of learning examined upon.*—Applicants for third-grade certificates shall be examined in the following branches: Orthography, reading, penmanship, grammar, practical arithmetic through fractions, primary geography, and the elementary principles of physiology and hygiene and agriculture; for second-grade certificates, they shall be examined in all the foregoing branches, and also in practical arithmetic, history of Alabama, history of the United States, English grammar and composition, and intermediate geography; for first-grade certificates, they shall be examined in all the following branches, and also in algebra, natural philosophy, geometry, the school laws of Alabama, and the theory and practice of teaching.

1735. *Examination shall be written; kind of paper and ink to be used.*—In all examinations under this article, the answers shall be written on legal cap paper, with pen and ink. The subject or branch shall be plainly written at the top of the page, and the answers shall be numbered to correspond with the questions.

1736. *Examination papers delivered to examiner; transmission to board.*—When an applicant shall have completed his examination, he shall write his name and address on each paper of the same, and deliver the same to the person appointed to conduct the examination, who shall inclose the papers of each applicant in a separate envelope, together with his certificate of the good moral character of the applicant, or the written proof of the same, on which he admitted the applicant to examination, and shall transmit the same to the secretary of the State board of examiners without delay.

1737. *Board examines and grades papers.*—The State board of examiners shall examine the papers coming to it under the provisions of the preceding section, as expeditiously as possible, and shall mark upon each paper the teacher's grade in that branch, according to the correctness or approximate correctness of the answers.

1738. *Certificates issued.*—If, upon such examination, it appears that the applicant is entitled to receive a certificate, the secretary of the board shall prepare a certificate in conformity with this article. The certificate shall be signed by the secretary of the State board of examiners and the superintendent of education, and shall be transmitted to the teacher entitled to the same.

1739. *Examination papers kept on file six months.*—All examination papers shall be kept on file in the office of the superintendent of education subject to public inspection for six months.

1740. (3579) (985) *Lifetime of certificates.*—Certificates granted under the provisions of this article

shall entitle their holder to teach in the public schools of any county in this State for the following periods of time: A third-grade certificate, two years; a second-grade certificate, four years; and a first-grade certificate, six years from the date of issuance of the same.

1741. *Life certificates.*—Whenever any teacher applying for a certificate shall make proof that he has been engaged for six years in teaching under first-grade certificate, which proof the county superintendent of education shall transmit to the State board of examiners, and shall show a high degree of proficiency and professional attainment, such teacher may be granted a life certificate, signed as prescribed for other certificates.

1742. *Forfeiture of life certificate.*—Any teacher holding a life certificate shall forfeit the same by leaving off the business of teaching for five consecutive years.

1743. *Revoking certificates.*—The superintendent of education shall revoke the certificate of any teacher who shall be guilty of immoral conduct or unbecoming or indecent behavior.

1744. *Register of licensed teachers.*—The secretary of the State board of examiners shall keep a register of all teachers examined and licensed under this article, showing the name and postoffice address of each teacher and the date and grade of his certificate, and shall keep the same on file in the office of the superintendent of education, and shall devote his time, when not engaged in the work of examining teachers, to clerical work in the department of education.

1745. *Separate districts.*—The provisions of this article shall not be so construed as to prohibit separate school districts of two thousand inhabitants or more, having authority at present by their charter to examine teachers, to further examine teachers who have certificates granted under this article.

1746. (3578) *Instruction as to the nature of alcoholic drinks and narcotics.*—Every teacher shall give instruction as to the nature of alcoholic drinks, tobacco, and other narcotics, and their effects upon the human system, and such subject shall be taught as regularly as any other in the public schools.

1747. *Teaching agriculture in public schools.*—In addition to the branches now taught in the public schools, instruction shall be given in the elementary principles of agriculture, and said subject shall be taught as regularly as other branches are taught in said schools, by the use of a text-book in the hands of the pupils, and such instruction shall be given in all the public schools of the State.

1748. (3580) (986) *Register kept by teacher and submitted.*—Every teacher of a public school must keep a register of the actual daily attendance of the pupils in his school, and must submit such register to the district trustees for their inspection.

1749. (3581) (987) *Monthly report; not entitled to compensation until forwarded.*—Every teacher of a public school must, within five days after the end of each scholastic month, forward to the county superintendent of education a complete report, setting forth the enrollment, attendance, the branches taught, and the number of pupils in each, distinguishing between the boys and the girls, and stating whether a white or colored school; also the number of days taught, the amount due for services from school revenues of the district, the number of visits by district trustees, and the name and postoffice of the teacher; and such report must be sworn to by the teacher before some one of the district trustees, and approved by them; and no teacher can draw any pay for the services rendered by him until he has forwarded his report in accordance with the requirements of this section.

1750. (3582) (988) *To be paid monthly.*—The teachers of public schools shall be paid monthly, as provided in this chapter.

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## ARTICLE 12.

### TEACHERS' INSTITUTES.

1751. (3590) (995) *Teachers' institutes to be organized.*—It shall be the duty of the board of education in each county to organize and maintain therein teachers' institutes, one for teachers who are white persons, and one for teachers who are colored persons, to be held at such times and places as the board may prescribe; but there shall not be less than ten licensed teachers in the county of the race for whom such institutes shall be organized.

1752. (3591) (996) *Officers and members of institutes; no fee imposed without consent.*—The county superintendent of education shall be the president of such institutes, and the members of the board of education shall be the vice-presidents thereof, one of whom shall preside over its meetings in the absence of the president; the other officers thereof may be elected. Every teacher of the county holding a license shall be a member of the institutes organized for his race. But no fee or assessment shall be imposed on a member without his consent.

1753. (3592) (997) *Meetings of institutes.*—There shall not be less than three meetings in each year of such institutes, one of which shall be held in the month of September, and at this meeting an address to the teachers shall be made by some person selected by the educational board; and teachers holding licenses shall attend at least one of such meetings; and failing to attend without a good excuse to be judged of by the county superintendent of education, shall forfeit one month's salary of teacher.

1754. (3593) (998) *Business of the institutes.*—The meetings of the institutes shall be devoted mainly to discussions and instructions in regard to the methods of teaching and disciplining schools, and to the textbooks used ,and other matters connected with the schools and school laws.

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### ARTICLE 13.

#### CHILDREN AND PUPILS ELIGIBLE TO PUBLIC SCHOOLS.

1755. (3595) (1000) *Pupils entitled to instruction in public schools.*—Every minor over the age of seven years shall be entitled to admission into, and instruction in any public school of his or her own race or color in this State.

1756. (3597) *When nonresidents entitled to school privileges.*—Any parent or guardian residing within the State who shall pay a local or special tax on real estate valued at five hundred dollars or more, in any city, or school district, shall be entitled to the privileges and benefits of the public schools in such city, or school district, for their children, the same as parents and guardians resident therein. The provisions of the charter of any municipality, or separate school district, in conflict herewith, are expressly repealed.

1757. (3600) (1003) *Separate schools for the two races.*—In no case shall it be lawful to unite in one school children of the white and colored races.

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### ARTICLE 14.

#### EXAMINATIONS IN PUBLIC SCHOOLS.

1758. (3599) (1002) *Public examinations, and certificates to pupils.*—Public examinations must be held in

the public schools at least once in every year; and when the board of education shall be satisfied that any pupil has become thoroughly educated in all the branches of free instruction in any one of such schools, they shall give to him or her a certificate to that effect.

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## ARTICLE 15.

### SCHOLASTIC PERIODS.

1759. (3598) (1001) *Scholastic periods.*—The scholastic year shall begin on the first day of October of each year, and end on the thirtieth day of September of the following year; twenty days shall constitute a school month, and a school day shall be not less than six hours.

## ARTICLE 16.

### APPORTIONMENT OF SCHOOL FUND; DISBURSEMENT.

1760. (3601) (1004) *State auditor certifies amount of educational fund; superintendent apportionments.*—On the first day of October of each year, or as soon thereafter as practicable, the State auditor shall certify to the superintendent of education the amount of money which has accrued and been placed by him to the credit of the educational fund for the scholastic year commencing on that day, stating specifically the amount derived from each source, and any unexpended balance there may be from the appropriation of the previous year to be carried forward; and the amount so certified shall be apportioned by the superintendent of education, and be drawn and disbursed as provided by law.

1761. (3602, 3605) (1005, 1008) *Contingent expenses and amount for normal schools set apart; residue apportioned.*—As soon as such certificate is received by the superintendent of education,

he shall set apart the following amounts for normal schools, to-wit: For the normal schools at Florence, Troy, Jacksonville, and at Livingston, fifteen thousand dollars each; and for other normal schools, such sums as are provided by law, and he shall then apportion all the remainder of such fund, as far as practicable, among the several counties in the State in proportion to the number of school children of school age therein, according to the latest returns of enumeration of school population of the counties which have been made to his office, but if such enumerations have not been made as provided by law, or have not been reported to him by the county superintendent of education, and the superintendent of education has not caused a new enumeration to be made, he shall then apportion to each county according to the best information he can obtain of the entire number of children of school age in such counties, but in no event shall he, in case of such failure to enumerate or report all the children of school age in the respective counties, estimate the school population of any county at more than the last official report to his office.

1762. (3603) (1006) *Amounts apportioned certified to auditor; no warrants drawn in excess; balance unapportioned certified to treasurer.*—As soon as such amounts have been set apart, and such apportionment has been made, the superintendent of education shall certify to the State auditor the amount set apart for each particular purpose or appropriation, and the total amount of the apportionment to the several counties, and the State auditor shall see that no warrants are drawn against the educational fund, for any purpose, for any amount in excess of the amounts so certified as set apart and apportioned; and he shall certify to the State treasurer the amount of the school revenue, exclusive of poll tax, unapportioned by the superintendent of education, and the treasurer shall set apart the amount out of any money received from the taxes of the current year, and he shall keep the same separate and

apart from all other revenues, and shall not pay out any of such money except upon warrants for school purposes.

1763. *Superintendent must certify and report amount of school fund apportioned to the several counties to the county superintendents of education.*—As soon as practicable after the superintendent of education has apportioned to the several counties the amount of school funds in proportion to the number of school children of school age therein, he shall certify and report the amount to the respective county superintendents of education, or to the county board of education in case there is no county superintendent of education, taking their receipts for such amounts so certified.

1764. (3604) (1007) *Interest on sixteenth-section or other trust fund first set apart; effect of apportionment.*—In making the apportionment of school money to the several districts, the superintendent of education shall first set apart to each township or other school district the amount due from the State thereto as interest on its sixteenth-section fund, or other trust fund held by the State; and all townships or school districts, having an income from such source, or from the lease or sale of sixteenth-section lands, shall not receive anything out of the balance of the educational fund to be apportioned, until all other townships or school districts, having no trust fund, shall have received from the general fund such amount as will give them an equal per capita apportionment with the townships or districts having such income.

1765. *Apportionment of school funds to school districts of the several counties.*—As soon as practicable after the superintendent of education has apportioned the school funds to the several counties and has certified the same to the county superintendents of education, the county boards of education shall apportion the funds awarded to their county to the several school dis-

tricts in their counties, so as to provide, as nearly as practicable, school terms of equal duration in such school districts.

1766. *Report of apportionment by county boards of education to superintendent of education.*—As soon as practicable after the county boards of education have apportioned the school funds of their county for any scholastic year to the several school districts, they shall report in writing their proceedings to the superintendent of education, showing the amounts apportioned to the several school districts.

1767. *County boards must keep record of apportionment.*—County boards of education must keep a record of each and every apportionment of school funds of their counties to the several school districts.

1768. (3606) (1009) *Apportionment recorded, and certified to county superintendents; when contracts for schools invalid.*—As soon as such apportionment is completed, the superintendent of education shall have the same recorded in his office, in books kept for that purpose, showing the amount which has been apportioned to each district, and the sources from which the same was derived, the amount to each district, and the number of children in the district upon which the apportionment was based; and he shall then furnish to each county superintendent of education a certified copy from such books, showing the dividends of the educational fund to each township or district under the latter's supervision; and the amount so divided and certified shall be the total amount which each of such school districts shall be entitled to receive from the State, except the poll tax, during the current scholastic year; and no contract to pay for any school or schools, for any district more than the amount thus apportioned to it, together with such poll tax as it may receive, and such funds as may be in hand from any previous year, shall be valid against the State or township.

1769. (3607) (1010) *Poll tax received by each county.*—Each county shall receive as school money all the poll tax collected therein; and the same shall be its full distributive share of the aggregate poll tax collected in this State.

1770. (3609) (1012) *Amount due each county apportioned and certified to auditor.*—The superintendent of education shall, by the tenth day of October in each year, or as soon thereafter as practicable, apportion to every county the amount of school money such county will be entitled to receive for the scholastic year from all sources except such special tax, if any, levied for school purposes in any county; and he shall certify the same to the State auditor.

1771. (3610) *County superintendent shall make pay rolls.*—On the fifteenth day of each month the county superintendents of education shall make in duplicate, for each race separately, a pay roll showing the names of all teachers engaged in teaching public schools in their counties, with their postoffice address, and the estimated amount that will be due to each teacher at the end of the current month from the funds of each township and range or district in its regular numerical order; and shall append thereto an affidavit that the same is correct. One of such duplicate pay rolls shall be retained by the county superintendent of education, and the other he shall forthwith forward to the superintendent of education, who shall examine the same, and if found correct, it shall be approved by him and filed with the State auditor.

1772. (3611) *State auditor shall draw warrant in favor of county superintendent.*—The State auditor shall, immediately upon the receipt of such pay roll, draw a warrant on the State treasury in favor of the county superintendent of each county for a sum which will be equivalent to the amount estimated to be due on said pay roll, and four per cent thereon, and shall file said warrant, together with the pay roll upon which it

is based with the State treasurer, whereupon it shall be the duty of the State treasurer to forward by express or exchange, whichever way may be the cheapest, at the expense of the State, to the county superintendent, the amount of such warrant, and the pay roll and duplicate receipts for said sum; provided, that whenever the warrant and pay roll upon which it is based for any county is filed with the State treasurer, it shall be the duty of the treasurer to immediately ascertain from the tax collector of such county if he has State funds in hand sufficient to pay such warrant; and if he has, the State treasurer must forward such warrant, together with the pay roll, to the county superintendent, and upon receipt of such warrant and pay roll the county superintendent shall present the warrant to the tax collector for payment, and the tax collector is authorized to cash such warrant when presented, properly endorsed, by the county superintendent, whereupon it shall be the duty of the tax collector to forward by mail such warrant, after indorsement by both the county superintendent and himself, to the State treasurer for credit on his account with the State. The county superintendent of education must immediately upon receipt of said sum sign the duplicate receipts and return one to the treasurer, who shall attach it to the appropriate warrant, and the other shall be returned to the auditor.

1773. (3612) *Teachers paid and receipts taken.*—Immediately upon the receipt by the county superintendent of the amount of the monthly pay roll he shall pay the teachers, taking their receipt therefor on both copies of said pay roll, and must by the fifteenth day of each month return one copy of such received pay roll to the superintendent of education. Provided, that in case any teacher should fail to call for the amount due him (or her), the county superintendent of their respective counties shall, at the expense and request of said teacher, mail the said teacher a registered letter or check on some bank in their respective counties for the amount due him; provided, that in no case shall the county superintendent pay a teacher or mail him a reg-

istered letter or check unless the teacher's monthly report, duly certified to, is on file.

1774. (3615) *Balance in hands of county superintendent charged to him.*—Upon the return of the received pay roll to the superintendent of education, if it should appear that there is a balance in the hands of the county superintendent, the amount of such balance shall be charged to him and shall be deducted from the amount of the next monthly pay roll.

1775. (3616) *County superintendent failing, must be removed.*—Any county superintendent, or superintendent of any separate school district, who fails to make and return any pay roll required by this article, or who fails to sign and return the receipts herein provided for, or who fails to pay the teacher within fifteen days after the receipt by him of the money, or who fails to return the received pay roll, must be removed from office by the superintendent of education.

1776. (3617) (1016) *Apportionment and expenditure of local school money.*—All local school funds raised for the support of public schools by taxation or otherwise shall be apportioned and expended in the district or districts or counties in which the same were raised, under such rules and regulations as the district trustees, or other local authority provided by law, may prescribe; but this section shall not be construed to repeal any provision for the apportionment and disbursement of moneys mentioned in this chapter, or provided for in special or local laws; and all funds contributed by persons, or otherwise, to such district, shall be applied as indicated in the grant from such contributors; and no school moneys distributed to the various counties from the State school revenue shall, either directly or indirectly, be paid for the erection of schoolhouses, for the use of schoolroom furniture, or any other contingent expenses of schools.

1777. (3618) (1017) *Apportionment of income from trust fund when township divided.*—Whenever a township or district which has an income from a trust fund is divided by a State or county line, or otherwise, into separate districts, or includes a city which is a separate school district, such income must be divided between and apportioned to each school district in such township or district, according to the school population of each.

1778. (3620) (1019) *Fund once apportioned, not used for other purposes until reapportioned.*—Funds which have accrued and have been apportioned to any district or race shall not be used for the benefit of any other district or race until the same shall have been reapportioned under the provisions of this Code.

1779. (3621) (1020) *What part of income new districts are entitled to.*—Whenever any separate school district is created, which shall embrace parts of two or more districts, such district shall receive its proportionate share of the income from any trust fund belonging to either or both of such districts, according to its school population.

1780. (3622) (1021) *Contingent fund for department of education.*—The State treasurer shall annually set apart, out of any money in the treasury, the sum of one thousand dollars, as a contingent fund for the department of education; and whenever it shall become necessary to draw on such fund, the superintendent of education shall certify the amount necessary, and for what purpose, to the auditor, who shall draw his warrant on the treasurer for such amount. The superintendent of education shall keep an accurate account of all sums which he shall certify to be paid out of such contingent fund, and shall furnish an itemized statement thereof to the governor each year, with his annual report.

## ARTICLE 17.

## SCHOOL LANDS; LEASE AND SALE.

1781. (3625) (1023) (962) (575) (501) *What are school lands, and in whom vested.*—School lands, within the meaning of this Code, are sections numbered sixteen, in every township granted by the United States for the use of schools in the township, and such other lands as may have been granted to any township or district for the use of schools ;and all school lands are vested in the State in trust to execute the objects of the grant.

(Note.—This article makes sales of sixteenth section and indemnity lands uniform.)

1782. (3661) *Sale of school and indemnity lands authorized.*—The superintendent of education is authorized and empowered to sell and dispose of all school lands, together with those which have been heretofore or may hereafter be certified to the State for the use and benefit of the several townships or districts in which was a deficiency in the amount of land originally certified to the State for their benefit, subject to the approval of the governor.

1783. *Consent of inhabitants of township or district to sale of land.*—No school lands, except indemnity lands, shall be sold without the consent of the inhabitants of the township or district in which such lands are located. Said consent to be obtained and shown by a petition in writing addressed to the superintendent of education requesting and consenting to the sale of such lands signed by a majority of the legally qualified voters of the township or district, which petition must be verified by the affidavit of at least three of the signers, that a majority of the inhabitants of the township or district in which the lands are situated desire a sale thereof and that the persons making and signing said petition constitute a majority of the qualified electors residing in said township or district.

1784. (3646) (1044) (986) (607) (537) *Resale of lands.*—If any purchaser fails to make the payment, or give his notes with approved sureties, and secured by a mortgage on the land, as required, the land bid off by him must be immediately resold, if practicable, but if not practicable to make the resale at once, it must be resold at a future day, as if no sale had been made; and the first purchaser shall be responsible for the difference between his bid and the amount for which the land is subsequently sold, if such amount is less than the bid of such first purchaser.

1785. (3662) *Proceeds of sale; how disposed of.*—The proceeds arising from such sales, after the payment of all proper costs and expenses thereof, shall be, by the superintendent of education, paid into the State treasury to the credit of the counties, townships, or school districts to which the same may belong in the proportion of their interest therein, so as to carry out the object and purposes of the original grants, gifts, or laws by which such lands were acquired for school purposes, as nearly as practicable under the existing school laws.

1786. (3663) *Notes taken by superintendent of education held until paid; when placed with the attorney general.*—All notes taken by the superintendent of education for the purchase of such lands must be secured by mortgage and must be held by him until the same are due, and if not then paid, may be placed with the attorney-general for collection.

1787. (3664) *Manner and terms of sale.*—Such sales may be made from time to time, at public or private sale, as in the judgment of the superintendent of education shall best promote the interest of the school fund of the State, and shall be for cash, or part cash and part on time, as the superintendent of education and the governor may deem best; but in no case shall there be less than one-fourth of the purchase money paid in cash, and the remainder shall be payable in yearly installments to extend over a period of not more than

three years, and shall be secured by notes with sureties and by mortgage on the land to be approved by the superintendent of education, and shall bear interest from the date of the sale.

1788. (3626) (1025) (967) (588) (519) *Timber lots reserved.*—The superintendent of education may select such lots as he thinks proper, to reserve from cultivation for the benefit of the timber thereon, and must mark the same “reserved” on the plat thereof.

1789. (3631) (1030) (972) (593) (524) *Timber lots; how used.*—The lots reserved for timber are for the common benefit of the lessees of the other lots; but no timber must be cut down, injured, or destroyed, as long as there is sufficient on the other lots, which the superintendent of education is to determine ;and the lessees must in no case cut down, injure, or detroy such timber without permission from the superintendent of education, which may be given on such such terms as he may think proper, having due regard to the interest of the township or district.

1790. (3632) (1031) (973) (594) (525) *Penalty for injuries to timber.*—Any person who, without authority, cuts down, boxes, injures, or destroys any tree on school lands shall forfeit and pay for every such tree ten dollars, to be recovered before any court having jurisdiction, in the corporate name of the township, or the school district in which such lands are located.

1791. (3633) (1032) (974) (595) (526) *Fines paid into treasury for school fund.*—All fines and forfeitures under the preceding section shall be paid into the State treasury, and added to the principal of the school fund of the township.

1792. (3647) (1045) (987) (608) (538) *Certificate purchase.*—The superintendent of education, on receiving from the purchaser the cash payment, and his notes and mortgages for the deferred payments, must give to

him a certificate of purchase, describing the lands purchased, and showing the number of acres and the amount of the purchase money.

1793. (3648) (1046) (988) (609) (539) *Effect of certificate of purchase.*—Such certificate conveys to the purchaser, his heirs, or assigns, a conditional estate in fee, to become absolute on the payment of the purchase money and interest, and to revert to the State for the uses originally granted in the following cases:

1. When all the notes have become due, and the makers have left the State, or died insolvent.
2. When a recovery on such notes is defeated by any defense avoiding the contract of sale.
3. When a recovery is had against all the makers, and execution has been returned "no property" by the proper officer of the county in which the township or district lies; or when judgment is had and execution returned against any one or more of such makers "no property," and the others have left the State, or died insolvent.

1794. (3649) 1047) (989) (610) (540) *Revesting of title; clerk to certify facts; penalty for failure; costs.*—No proceeding is necessary to vest the title in the State on the happening of the events specified in the preceding section, but such lands may be recovered in the name of the State, for the use of the township or district, against any person in possession of the same, upon proof of the facts ;and it is the duty of the clerk of the court in which the suit is pending, or the judgment recovered, to certify the facts to the superintendent of education, on the happening of the events specified in the second and third subdivisions of the preceding section, and failing to do so within a reasonable time, he forfeits the sum of one hundred dollars; one-half to the person suing for the same, and the other to the State for the use of the township or district. When no money is recovered in suits on notes for purchase money of school lands, no costs must be taxed against the township or district for such suits.

1795. (3651) (1049) (991) (613) (543) *Fines go to school fund.*—The amount received by the State upon recoveries had under the last preceding section is to be added to the principal of the school fund of the township or district.

1796. (3652) (1050) (992) (614) (544) *Patents.*—A patent issues, on the payment of the purchase money, to the purchaser, his heirs, or assigns; and when the patent is to the heirs, it vests a title in all persons entitled to claim in that capacity under the provisions of this Code.

1797. (3653) (1051) (993, 996) (615, 616) *Issue of patent by secretary of State; correction of mistake.*—The secretary of state must issue patents, upon satisfactory evidence furnished him of full payment of purchase money, to any person, agent, or other officer legally authorized to receive such payment; and upon proof of a mistake in the issue of any patent, he must correct the same, or issue a new patent on the return of the original to his office.

1798. (3654) (1052) (995) (617) (545) *Issue of patents in other cases.*—Except under the provisions of the preceding section, no patent must issue without the certificate of the superintendent of education that the whole amount of the purchase money specified in the certificate, with all interest thereon, has been paid.

1799. (3655) (1053) (998) *Collection of past due notes.*—All notes for school lands held by or deposited with the superintendent of education, if not paid within six months after maturity, must be placed with the attorney-general for collection; but this section shall not be so construed as to prevent the superintendent of education from ordering suit on notes at any time after maturity, when so ordered by the sureties on the notes.

1800. (3656) (1054) (999) *Appointment of agents for collection of notes.*—The superintendent of edu-

tion may appoint agents for surveying, mapping, or platting school lands and for the collection of notes for purchase money of land, being responsible for any neglect on the part of such agents.

1801. (3657) (1055) (1000) *Township credited with collection on notes.*—All collections on notes given for the sale or lease of school lands must be paid into the treasury of the State, to the credit of the proper township or district.

1802. (3658) *Proceeds of school lands covered into treasury faith and credit of State pledged for payment of interest.*—All funds now in the State treasury derived from the sale of sixteenth-section or other school lands, or which may hereafter accrue from sales of such lands, together with the redemption money of other lands in which former accumulations have been invested under an act approved March 1, 1881, entitled "An act to authorize the compromise and settlement of claims for school lands in this State," are covered into the State treasury and made available for general purposes; and the faith and credit of the State is pledged for the payment of the interest on such fund to the public schools of the State, at the rate of six per cent per annum.

1803. (3665) *Lease of school and indemnity lands.*—The superintendent of education may, with the approval of the governor, lease out all or any of the school or indemnity lands for a term not exceeding five years, or may enter into contracts permitting persons to mine ore, coal, or other minerals therefrom, upon a royalty, for a term not exceeding twenty years; and the net proceeds of all moneys received from the lease of such lands, or as a royalty for the minerals mined therefrom, shall be paid into the State treasury monthly, to the credit of the townships to which such lands belong in the proportion of their interest therein.

1804. *Compromise; board of, as to school lands.*—The governor, superintendent of education, and attorney-general are constituted a board of compromise for the purpose of examining into the title or claim of the State to any sixteenth-section or other school lands which have illegally passed out of the possession of the State, or which have heretofore been disposed of by the State and not paid for. The board may take all action necessary to recover any such lands, or, if deemed best, may settle and compromise any conflicting claims thereto between the State and persons claiming the land. When any compromise or settlement is made the secretary of State shall, upon the order of the board of compromise, issue patents to the land the claims to which have been so compromised.

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## ARTICLE 18.

### TEXT-BOOK COMMISSION; MEMBERS, APPOINTMENT OF.

1805. *Text-book commission; how constituted.*—On or before March 1st, 1908, the governor shall select and appoint nine educators of known character and ability, men well acquainted with arranging courses of study and engaged in public school work, one from each congressional district, who, together with himself and the State superintendent of education, shall constitute the text-book commission of Alabama.

1806. *Oath of commissioners.*—Before transacting any business pertaining to the duties of this commission, they shall each take an oath before some person authorized to administer oaths, to faithfully discharge all the duties imposed upon them as members of said text-book commission, and that they have no interest, directly or indirectly, in any contract that may be made under this article, and receive no personal benefit therefrom.

1807. *Commission; organization of.*—The text-book commission shall immediately after their appointment meet and organize, the governor being president of the commission and the superintendent of education secretary of said commission.

1808. *Duties of commission.*—It shall be the duty of said commission to select and adopt a uniform series of text-books for use in the public schools of the State for a period of five years.

1809. *Unlawful to use other books than those selected.*—It shall be unlawful for any school official, director, or teacher to use any books upon the same branches other than those adopted by said State text-book commission.

1810. *Branches of study for which books selected.*—Said uniform series shall include the following branches of study, to wit: Orthography, reading, writing, arithmetic, geography, grammar, language lessons, history of Alabama containing the constitution of the State, history of the United States, elementary physiology and hygiene, elementary principles of agriculture, and such other branches of study as properly belong in a common school course.

1811. *Partisan or sectarian books forbidden.*—None of said text-books shall contain anything of a partisan or sectarian character.

1812. *Books selected may be dropped.*—The text-book commission shall have the power by three-fourths vote to drop an unsatisfactory book at the end of any school year during the continuance of the contract and to make another adoption.

1813. *Qualities and merits of books to control in selection.*—The text-book commission shall consider the merits of each book, taking into consideration their subject-matter, the printing, binding, material, and me-

chanical qualities, and their general suitability and desirability for the purpose intended, as well as the price of said books, but no text-book the subject-matter of which is of inferior quality shall be adopted by the text-book commission. Said commission shall select and adopt such books as will, in their best judgment, accomplish the ends desired.

1814. *Desirable books; when price too high.*—In case any book or books are deemed suitable for adoption and more desirable than other books of the same class submitted, and they further consider the price at which the books are offered to be unreasonably high, and that they should be offered at a smaller price, the commission shall immediately notify the publisher or author of such book or books of their decision, and request such reduction in price as they deem reasonable and just, and if they and such publishers shall agree on a price they may adopt his book or books, but if not, they shall use their own sound judgment and discretion whether they will adopt that or the books which are deemed by them next best in the list published.

1815. *Advertisement for bids.*—As soon as practicable, not later than thirty days after its organization, the commission shall advertise in such manner and for such length of time and at such places as may be deemed advisable, that at a time and place fixed definitely in said advertisement, sealed bids or proposals will be received from the publishers of school text-books for furnishing books to the public schools in the State of Alabama, through such agencies in the several counties, and places in the several counties in the State, as may be provided for in such regulations as said commission may adopt and prescribe.

1816. *Bids; specifications, requisites, and contents of.*—The bids or proposals shall be for furnishing the books for a period of five years and no longer, and that no bid for a longer period will be considered. Said bids shall state specifically and definitely the price at which

the books will be furnished, and shall be accompanied by one or more specimen copies of each and every book proposed to be furnished.

1817. *Deposit as security for performance of bid.*—It shall be required of each bidder to deposit with the treasurer of the State a sum of money such as the commission may require, not less than five hundred dollars nor more than twenty-five hundred dollars, according to the number of books each bidder may propose to supply, and notice shall further be given in such advertisement that such deposits shall be forfeited absolutely to the State if the bidder making the deposit shall fail or refuse to make and execute such contract and bond as is hereinafter required, within such time as the commission may require, which time shall also be stated in the advertisement.

1818. *Bids sealed and deposited.*—All bids shall be sealed and deposited with the secretary of State, to be by him delivered to the commission when they are in executive session, for the purpose of considering the same, when they shall be opened in the presence of the commission.

1819. *Bids opened, examined, and contract awarded.*—The text-book commission shall meet at the time and place designated in such notice or advertisement, and take out the sample or specimen copies submitted upon which the bids are based. When the members have examined all books submitted until thoroughly satisfied, it shall be the duty of said text-book commission to meet in executive session to open and examine all sealed proposals submitted and received in pursuance of the notice or advertisement provided for in section 1815 of this Code. The commission shall then examine and carefully consider such bids or proposals and determine in the manner provided in the preceding sections of this article what book or books shall be selected for adoption, taking into consideration the size, quality as to subject-mater, material, printing, binding, and the me-

chanical execution and price, and the general suitability for the purpose desired and intended; all books selected and adopted shall be written or printed in English.

*1820. Notification to publishers of contracts awarded.*—After their selection for adoption shall have been made, the said commission shall by registered letter notify the publishers or proposers to whom the contracts have been awarded.

*1821. Contract; preparation, execution, and filing of.*—The attorney-general of the State shall prepare the said contract or contracts in accordance with the terms and provisions of this article, and the said contract shall be executed by the governor and secretary of State with the seal of the State attached upon the part of the State of Alabama, and the said contract shall be executed in triplicate, one copy to be kept by the contractor, one copy by the secretary of the text-book commission and copied in full in the minutes of said commission, and one copy to be filed in the office of the secretary of State.

*1822. Bond of contractor; preparation, execution, and conditions of.*—At the time of the execution of the contract aforesaid the contractors shall enter into a bond in the sum of not less than ten thousand dollars nor more than thirty thousand dollars, payable to the State of Alabama, the amount of said bond within said limits to be fixed by said commission conditioned for the faithful, honest, and exact performance of the contract, and shall further provide for the payment of reasonable attorney's fees in case of recovery in any suit upon the same, with three or more good, solvent sureties, actual citizens and residents of the State of Alabama, or any guaranty company authorized to do business in the State of Alabama may become surety on said bond. The attorney-general shall prepare said bond and approve the same. The said bond shall not be exhausted by a single recovery, but may be sued on from

time to time until the full amount shall be recovered; and the said commission may at any time, by giving thirty days' notice, require additional security or additional bond, within the limits prescribed.

1823. *Deposit returned after execution of bond.*—When any person, firm, or corporation shall have been awarded a contract and submitted therewith the bond as required in this article, the commission through its secretary shall so inform the treasurer of the State, and the treasurer shall return such contractor the cash deposit made by him, and the commission through its secretary shall inform the treasurer of the names of the unsuccessful bidders or proposers, and the treasurer shall, upon receipt of this notice, return to them the amount deposited in cash by them at the time of the submission of their bid.

1824. *Failure to execute contract or bond; consequence of.*—Should any person, firm, company, or corporation fail or refuse to execute the contract and submit therewith his bond as required by this article within thirty days of the awarding of the contract to him and the mailing of the registered letter containing the notice (provided the mailing of the registered letter shall be sufficient evidence that the notice was given and received), the cash deposit will be deemed forfeited to the State of Alabama, and the treasurer shall place such cash deposit in the treasury of the State to the credit of the general school fund.

1825. *Recovery on bond for benefit of fund.*—Any recovery had on any bond given by any contractor shall inure to the benefit of the said fund of the State, and when collected shall be placed in the treasury to the credit of the said fund and be prorated among the several counties of the State.

1826. *Books furnished must be equal to specimens.*—The books furnished under any contract shall at all

times during the existence of the contract be equal to, in all respects, the specimens or sample copies furnished with bids.

1827. *Secretary of State preserves sample copies and furnishes to superintendent.*—The secretary of State shall carefully preserve in his office as the standard of quality and excellence to be maintained in such books during the continuance of such contracts the specimens or sample copies of all books which have been made the basis of any contract, together with the original bid or proposal, and the contractor shall also furnish each county superintendent of education like specimen or sample copies, which shall be preserved by him in like manner, and the same shall always be open to the inspection of the public.

1828. *Contract and exchange price printed on back of books.*—All contractors shall print on the back of each book the contract price, as well as the exchange price at which it is agreed to be furnished, but the books submitted as specimen or sample copies with the original bids shall not have the price printed on them before they are submitted to the commission.

1829. *Price of books for this State shall not exceed that of others.*—The text-books commission shall not in any case contract with any person or publisher for the use of any books which are to be sold to patrons or used in any public school in this State at a price above or in excess of the price at which such book or books are furnished by said person or publisher under contract to any State, county, or school district in the United States under like conditions prevailing in this State and under this article. It shall be stipulated in each contract that the contractor has never furnished and is not now furnishing under contract any State, county, or school district in the United States where like conditions prevail as are prevailing in this State under this article, the same book or books as are embraced in said contract at a price below or less than the price stipulated in the

said contract, and the said commission at any time they may find that any book has been furnished at a lower price under contract to any State, county, or school district aforesaid, shall sue upon the bond of said contractor and recover the difference between the contract price and the lower price at which they find the book or books have been sold, and in case a contractor shall fail to execute, specifically, the terms and provisions of his contract, said commission shall bring suit upon the bond of such contractor for the recovery of damages, the suit to be in the name of the State of Alabama, and the recovery for the benefit of the public school fund.

1830. *Changing or altering contract.*—The commission and any contractor agreeing thereto may in any manner change or alter any contract, provided a majority of the commission shall agree to the change and think it advisable and for the best interest of the public schools of the State.

1831. *Majority controls.*—In all matters unless otherwise provided a majority of said commission shall control.

1832. *State not liable to any contractor.*—It shall always be a part of the terms and conditions of every contract made in pursuance of this article, that the State of Alabama shall not be liable to any contractor in any manner, in any sum whatsoever, but all such contractors shall receive their pay or consideration in compensation solely and exclusively derived from the proceeds of the sale of books, as provided for in this article.

1833. *Old books exchanged for new.*—The commission shall stipulate in the contract for the supplying of any book as provided in this article that the contractor or contractors shall take up the school books now in use in this State, and receive the same in exchange for new books at a price not less than fifty per cent of the contract price. Such exchange period shall not continue longer than one year from the date of contract. Each

person or publisher making a bid for the supplying of any book or books under this article shall state in such bid or proposal the exchange price at which such book or books will be furnished.

1834. *Rejecting bids or proposals.*—The text-book commission shall have and reserve the right to reject any and all bids or proposals if they shall be of opinion that any or all should for any reason be rejected.

1835. *Re-advertisement for bids.*—In case the commission fails from among the bids or proposals to select or adopt any book or books upon any of the branches mentioned in previous sections of this article, they may re-advertise for sealed bids or proposals under the same terms and conditions as before, and proceed in their investigations in all respects as they did in the first instance, and as required by the terms and provisions of this article.

1836. *Bids for copyright and manuscripts.*—The commission may advertise for sealed bids or proposals from authors or publishers of text-books who have manuscripts of books not yet published, for prices at which they will publish and furnish in book form such manuscripts, or for prices at which they will sell such manuscripts, together with the copyright with such books, for use in the public schools of Alabama, proceeding in all respects in like manner as before. Before accepting or rejecting any manuscript it shall be the duty of the commission to take the manuscript and advertise for sealed bids or proposals for publishing the same in book form, in like manner as provided in this article, and under the same restriction and condition, and the contract may be let for the publication of all such books or for any one or more separately. The State itself shall not under any circumstances enter into any contract binding it to pay for the publication of any book or books, but in the contract with the owner of the manuscript it shall be provided that he shall pay the compensation to the publisher for the publication and putting in book

form the manuscript, together with the cost and expense of copyrighting the same ;and provided that in all cases bids or proposals shall be accompanied with the cash deposit of from five hundred to twenty-five hundred dollars, as the commission may direct, and as previously provided in this article.

1837. *Manuscripts or printed form of matter proposed to be incorporated in book.*—Any person, firm, or corporation now doing business, or proposing to do business in the State, shall have the right to bid for the contract to be awarded under this article in the manner as follows: In response to the advertisement, when made as hereinabove provided, said person, firm, or corporation may submit in writing bid or bids to edit or have edited, publish and supply for use in the public schools in this State, any book or books herein provided for, provided that instead of filing with said bid or proposals a sample or specimen copy of each book proposed to be furnished, he may exhibit to the commission a manuscript or printed form of the matter proposed to be incorporated in any book, together with such a description and illustration of the form and style thereof as would be fully intelligible and satisfactory to said commission, or they may submit a book or books, the equal of which in every way they propose to furnish, and they shall accompany their bid or proposal with the cash deposit and execute a contract and bond as herein-before provided.

1838. *Proclamation of governor announcing contract.*—As soon as said commission shall have entered into a contract or contracts for the furnishing or supplying of books for use in the public schools in this State, the governor shall issue his proclamation announcing such facts to the people of the State.

1839. *Three depositaries or places of sale in each county.*—The party or parties with whom the contract shall be made shall place their books on sale at not less than three places in each county of the State for the

distribution of the books to the patrons, and the contractor shall be permitted to make arrangements with a merchant or other person for the handling and distribution of the books.

1840. *Contract price printed on books.*—All books shall be sold to the consumer at the retail contract price, and in each book shall be printed the following: (The price fixed herein is fixed by State contract and deviations therefrom shall be reported to your county superintendent of education or the State superintendent at Montgomery). Should any party contracting to furnish books as provided for fail to furnish them or otherwise breach his contract, in addition to the right of the State to sue on his bond hereinabove required, the county superintendent of any county may sue, in the name of the State of Alabama, in any court of competent jurisdiction in the county in which he resides, for the use and benefit of the school fund of the county; provided that the right of action of the county superintendent shall be limited to breaches of the contract committed in the county of his residence. In all cases under this article service of process may be had and deemed sufficient on any agent of the contractor in this State.

1841. *Distribution of books.*—The commission shall, from time to time, make any necessary regulations to secure the prompt distribution of the books provided for in this article, and the prompt and faithful execution of all contracts.

1842. *Commission continues for five years; new commission appointed.*—Said commission shall maintain its organization for five years, and at the end of said period of five years the governor shall name a similar commission with like powers and a like term as the first named commission.

1843. *List of books, agencies, and prices furnished to county superintendent of education.*—As soon as practicable after the adoption, provided for in this article,

the State superintendent of education shall issue a circular letter to each county superintendent of education and each teacher in the State, and to such others as he may desire to send it, which letter shall contain the list of books adopted, the prices, location of agencies, the manner of distribution, and such other information as he may deem necessary.

1844. *Supplementary text-books; books for higher or more advanced studies.*—As soon as the existing contract for books expires the books adopted as a uniform series of text-books for the next five years shall be introduced and used as text-books to the exclusion of all others in all the public free schools in this State. Supplementary books shall be used, but such books shall not be used to the exclusion of the books prescribed or adopted under the provisions of this article. Higher or more advanced branches may be taught than provided in this article, but such higher branches or books shall not be taught to the exclusion of the branches or books mentioned in this article.

1845. *Other books used upon failure to furnish those adopted.*—The patrons of the public schools throughout the State may procure books in the usual way in case no contract shall be made, or the contractor fails or refuses to furnish the books provided for in this article at the time required for their use in the respective schools.

1846. *Appropriation.*—The sum of three thousand dollars, or so much thereof as may be necessary, to be paid out of the moneys in the treasury not otherwise expended, is appropriated for the purpose of paying the costs and expenses of carrying into effect the provisions of this article.

1847. *Compensation of commissioners.*—The governor and superintendent of education shall serve on the commission without compensation, and the other members of the commission shall be paid the sum of four dol-

lars per day during the time they are actually engaged, and in addition shall receive ten cents per mile for each mile traveled from their homes to their place of meeting and return thereto, to be paid out of the funds appropriated by the preceding section, and they shall each make and swear to a statement of the number of miles traveled and the number of days actually engaged.

1848. *Clerk of commission; compensation of.*—The commission may appoint a clerk who shall have three dollars per diem during the time he is actually engaged and the same mileage as is allowed the members of the commission.

1849. *Books adopted continue for five years.*—The adoption made as provided for in this article shall continue for five years from the expiration of the existing contract, unless otherwise provided.

1850. *Failure to furnish books; contract for unexpired term.*—In case of the failure of any contractor to furnish the books as provided in his contract, his bond shall be declared forfeited, and the State school-book commission may make such other contract for the unexpired term with another person to provide such books as they may deem advisable for the best interest of the State.

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## ARTICLE 19.

### ELECTION FOR SPECIAL TAX FOR PUBLIC SCHOOLS.

1851. *Petition for call for election.*—Upon a petition signed by two hundred or more qualified electors of the county who are also freeholders, to the court of county commissioners, or court of like jurisdiction in any county within the State of Alabama, the said court shall order an election to determine whether or not a special tax shall be levied for the support of the public schools

within said county as hereinafter provided; but only one such election shall be held in any two years.

1852. *Notice and publication.*—There shall be made publication of the same in some newspaper within the county, which publication shall show the rate of such proposed tax, the time it is proposed to be continued, and the purpose for which the levy is proposed to be made.

1853. *Managers and officers of election as in general election.*—The inspectors and officers of the election shall be appointed and such elections shall be held and the result of said elections shall be declared in the same manner and by the same officers as is the result of the regular elections for county officers under the general laws of the State.

1854. *Qualified electors, etc.*—All persons who are at the time of such election qualified electors in the county where such election is held under the laws and constitution of Alabama then in existence, shall be qualified electors to participate therein.

1855. *Ballot; form and manner of voting.*—The court of county commissioners, or court of like jurisdiction, shall provide a sufficient number of ballots for each voting precinct within said county, and at the top of each ballot shall be printed the rate of such proposed tax, the time is to be continued, and that the purpose is for the support of the public schools, and directly underneath in plain type shall be printed on different lines the words "For proposed taxation," "Against proposed taxation," and a place must be left directly to the left of each line thereof, and the voters favoring the proposed taxation will make a cross mark directly to the left of the line "For proposed taxation," and the voter not favoring proposed taxation will make a cross mark directly to the left of the line "Against proposed taxation."

1856. *Special tax levied and assessed.*—If three-fifths of those voting at said election have voted for the proposed taxation, the court of county commissioners, or court of like jurisdiction, shall levy said special tax, and cause the tax assessor to assess the same on the taxable property in said county, which shall not exceed ten cents on each one hundred dollars of taxable property in said county; but the rate of such special tax shall not increase the rate of taxation, State and county combined, in any one year, to more than one dollar and twenty-five cents on each one hundred dollars of taxable property in said county, but all special county taxes for public buildings, roads, bridges, and the payment of debts existing at the ratification of the constitution of 1875 shall not be included in the aforesaid one dollar and twenty-five cents on the one hundred dollars of taxable property.

1857. *Time tax continues.*—The time such special tax may continue shall not be less than two years.

1858. *Tax; how collected and disbursed.*—The tax collector shall collect such special tax in the same manner and under the same requirements and laws as taxes of the State are collected, and he shall keep said amount separate and apart from all other funds, and keep a clear and distinct account thereof, showing what amount is paid by the negro race and what amount is paid by the white race, and turn the same over to the county superintendent of education, whose duty it shall be to receipt therefor and apportion the same to the various schools throughout the county in the same manner as the general school fund from the State are apportioned in said county; provided, that the school terms of the respective schools shall be extended by such supplement as nearly the same length of time as practicable.

1859. *Election held at time for general election; costs of such election.*—The election hereinbefore provided for may be had at the time of holding any regular

election within the county, and if held at such time the inspectors and officers of the general election shall conduct at the same time the election herein provided for; and for such services they shall receive no compensation other than that allowed them for the holding of the general election; but if such an election is had at any other time than that of holding a regular election within the county, then the election officers shall receive the same pay as that for holding a general election.

1860. *Compensation of tax collector, tax assessor, and county superintendent of education.*—The tax collector, tax assessor, and county superintendent of education shall receive for the services required of them under the provisions of this article the same per cent of the funds handled as they receive for like services as to general taxes.

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## ARTICLE 20.

### HIGH SCHOOLS FOR COUNTIES.

1861. *High school commission to locate and establish.*—The governor, auditor, and superintendent of education shall constitute a commission to locate one high school in each of the counties of this State; provided, that a high school shall not be established under the provisions of this article in any county in which there is already established an agricultural school, normal school for white people, the Polytechnic Institute, the University of Alabama, the Industrial School for White Girls, or a high school free to all the children of the county, until after a high school has been established in all the other counties.

1862. *Sites procured; annual donations paid quarterly.*—For any county in which the citizens thereof shall secure a suitable site, which shall consist of not less than five acres of land the title to the surface of

which shall be in fee (but the land need not include mineral rights), and erect thereon a good and substantial building with all the necessary equipments for a high school, the cost of said land, building, and equipments to be not less than five thousand dollars, and upon making a deed to the State of Alabama of said land, building, and equipments, there shall be appropriated out of any money in the treasury not otherwise appropriated the sum of two thousand dollars for the payment of the teachers in said high school or high schools complying with the provisions of this article, and this appropriation is hereby made to continue annually, the same to be paid quarterly upon warrants drawn by the county board of education in the county in which said high school is located, said warrant or warrants to be subject to the approval of the commission hereinbefore created; provided further, that none of said two thousand dollars shall be devoted to any other purpose whatever than the payment of teachers' salaries.

*1863. High schools controlled by high school commission and county board of education.*—Said school or schools as hereinbefore established shall be under the direction and control of the said commission as a board of trustees in connection with the board of education in the county in which said high school is located.

*1864. Free schools and office of trustee not abolished.*—Nothing in this article shall be so construed as to abolish any free school in any district, or the office of trustee in any district in which said high school may be located.

*1865. Qualifications and eligibility of teachers and students.*—No teacher shall be eligible to teach in any high school established under the provisions of this article, unless holding a first-grade or life certificate. Nor shall any student be eligible to entrance into said high school unless said student can pass a satisfactory examination in the branches of free public instruction in the elementary schools of his or her county. Such schools

shall be open to students of the white race regardless of age who have complied with the provisions of this section.

1866. *Course of study.*—A course of study for such school or schools shall be provided and required by the superintendent of education; but such course of study shall consist of secondary branches of study.

1867. *Matriculation fee.*—A matriculation fee of one dollar may be charged to each student to defray necessary expenses during each term.

1868. *When article goes into effect.*—This article shall not go into effect until the governor shall decide that the condition of the treasury will admit of the appropriation herein made.

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## ARTICLE 21.

### UNIVERSITY OF ALABAMA.

1869. (3667) (1058) (1295) *Incorporation of university.*—The governor and the superintendent of education, by virtue of their respective offices, and the trustees heretofore appointed from the different congressional districts of the State under the provisions of section 264 of the constitution, and such other members as may be from time to time added to the board of trustees, and their successors in office, are constituted a body corporate under the name of "The board of trustees of the University of Alabama," to carry into effect the purposes and intent of the congress of the United States in the grant of lands by the act of April 20, 1818, and of the act of March 2, 1819, to this State, to be by it held and administered for the benefit of a seminary of learning.

1870. (3668) (1059) (1296) *General powers, duties, and liabilities of such corporation.*—Such corpora-

tion shall have all the rights, powers, and franchises necessary to or promotive of the end of its creation, and shall be charged with all the corresponding duties, liabilities, and responsibilities.

1871. (3669) (1060) (1297) *Power of holding and disposing of property.*—Such corporation may hold, and may lease, sell, or in any other manner not inconsistent with the objects or terms of the grant or grants under which it holds, dispose of any property, real or personal, or any estate or interest therein, remaining of the original or any subsequent grant by congress, or by this State, or by any person, or accruing to the corporation from any source, including also the proceeds of the "University Fund," as to it may seem best for the purposes of its institution.

1872. (3670) (1061) (1298) *University fund defined; credit of State pledged for payment of interest.*—The fund designated in the preceding section as the "University Fund" consists of the sum of thirty-six thousand dollars per annum as interest on the funds of the University of Alabama, heretofore covered into the treasury, for the maintenance and support of said institution, which said sum of thirty-six thousand dollars shall be paid to the duty authorized agent of the university as hereinafter provided; and the further sum of twenty-five thousand dollars, annually, is added to and made a part of the university fund.

1873. (3671) (1062) (1299) *When gift or grant not affected; what not a forfeiture.*—No grant or gift, by will or otherwise, shall fail on account of any misnomer or informality, when the intention of the grantor or donor can be ascertained; nor shall any default, malfeasance on the part of the trustees or other officers or agents of such corporation, work a forfeiture of any of its rights, powers, privileges, or franchises.

1874. (3672) (1063) (1300) *Rights, etc., of university continued in corporation.*—In addition to the

rights, properties, privileges, and franchises herein granted, all rights, properties, privileges, and franchises heretofore, by any act of the legislature, granted to or vested in the University of Alabama, shall vest and continue in such corporation.

1875. (3673) (1064) (1301) *Powers of board of trustees; no exclusion from benefit of "University Fund," etc.*—The board of trustees have the power to organize the university by appointing a corps of instructors, who shall be styled the faculty of the university, and such other officers as the interest of the university may require; to remove such instructors or officers, and to fix their salaries or compensation, and increase or reduce the same at their discretion; to institute, regulate, alter, or modify the government of the university, as they may deem advisable; to prescribe courses of instruction, rates of tuition, price of board, and regulate the necessary expenses of students; and to confer such academic and honorary degrees as are usually conferred by literary institutions. They may delegate to the faculty of the university, or other officers, such powers and functions in the government of the students, and in the administration of the affairs of the university, as they may deem proper ;but in no case shall any person be authorized to receive, hold, or disburse any funds of the university without having first given bond, conditioned for the faithful discharge of his duties; and no person shall be excluded from the full benefit of the university fund, or placed at any disadvantage in the pursuit of his studies, who possesses the requisite literary and other qualifications, and is willing to submit to the discipline prescribed the students.

1876. (3674, 3675) (1065, 1066) (1302, 1303) *Classification of trustees; term and oath of office.*—The State university shall be under the control of the board of trustees, which shall consist of two members from the congressional district in which the university is located, and one from each of the other congressional districts in the State, the superintendent of education, and the

governor, who shall be ex officio president of the board. The members of the board of trustees, as now constituted, shall hold office until their respective terms expire under existing law, and until their successors shall be elected and confirmed, as hereinafter required. Successors to those trustees whose terms expire in nineteen hundred and two shall hold office until nineteen hundred and seven; successors to those whose terms expire in nineteen hundred and four shall hold office until nineteen hundred and eleven; successors to those trustees whose terms expire in nineteen hundred and six shall hold office until nineteen hundred and fifteen; and thereafter their successors shall hold office for a term of twelve years. When the term of any member of such board shall expire, the remaining members of the board shall, by secret ballot, elect his successor, provided, that any trustee so elected shall hold office from the date of his election until his confirmation or rejection by the senate, and, if confirmed, until the expiration of the term for which he was elected, and until his successor is elected. At every meeting of the legislature the superintendent of education shall certify to the senate the names of all who have been so elected since the last session of the legislature and the senate shall confirm or reject them, as it shall determine is for the best interest of the university. If it reject the names of any member, it shall thereupon elect trustees in the stead of those rejected. In case of a vacancy on said board by death or resignation of a member, or from any cause other than the expiration of his term of office, the board shall elect his successor, who shall hold office until the next session of the legislature. When the name of a successor or successors elected by said board to fill the vacancy or vacancies so occasioned shall be certified by the superintendent of education to the senate, and the senate shall confirm or reject, as it shall determine is for the best interest of the university; and if confirmed by the senate, the person or persons so elected to fill said vacancy shall hold office for the unexpired term to which he is so elected. If the senate rejects the name of any person to fill said vacancy, it shall thereupon elect some

person or persons in the stead of those rejected. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

1877. (3676) (1067) (1304) *Quorum of board of trustees; president pro tempore.*—Five members of the board of trustees, exclusive of the ex-officio members, shall constitute a quorum, and every member present shall be required to vote, and a majority of those present shall govern. At their first meeting, the board shall elect one of their number president pro tempore, who shall preside in the absence of the governor, and shall hold the position until the next annual or special meeting, when another president pro tempore shall be elected.

1878. (3677) (1068) (1303, 1304) *Time and place of meetings of trustees.*—The board of trustees shall meet at least once in each year, and on the last Wednesday in June, unless some other day is selected by them, and they may, by ordinance or resolution adopted by them, prescribe other regular times for meeting. At such meetings they may continue in session as long as they may deem proper for the welfare of the institution, and may at any session appoint a special or adjourned meeting. Upon the written application of four members, or of any three members with his concurrence, the president pro tempore shall appoint a special meeting, and issue notice thereof to the several members; but such special meeting shall not be appointed for a day less than twenty days subsequent to the date of the notice. In case there is no president pro tempore of the board, or in case he is incapacitated to act, then the governor, as president of the board, shall, upon the written application of four members, in like manner call such special meeting. Regular meetings of the board must be held at the university, but special or adjourned meetings may be held at the university or in the city of Montgomery, or in the city of Birmingham.

1879. (3678) (1069) (1305) *Proceedings of board recorded; employment of secretary; payment of expenses, etc.*—The proceedings of the board of trustees must be recorded in a substantially bound book, which must be kept in the archives of the university; and the board may at any meeting employ a secretary. The certificate of the president, or in his absence, of the president pro tempore, countersigned by the secretary, if there be one, shall entitle the several trustees to their constitutional pay out of the treasury of the university; and the compensation of the secretary and the necessary incidental expenses of the board at each session shall be paid on the order of the board, and the certificate of the president, or president pro tempore, as the case may be, out of such treasury.

1880. (3679) (1070) (1306) *Report by board to the legislature.*—It shall be the duty of the board of trustees to make to the legislature, at each session thereof, a full report of their transactions, and of the condition of the university, embracing an itemized account of all receipts and disbursements on account of the university by those charged with the administration of its finances.

1881. (3681) (1072) (1309) (430) (384) *Interest on "University fund"; how payable.*—The State treasurer must quarterly, on the last day of December, March, June, and September of each year, pay the "university fund," as defined by section 1872 (3670) of this Code, to the treasurer or any authorized agent of the university; and on the application of such treasurer or agent, the State auditor shall draw his warrant on the State treasurer for the amount due; such payments to commence on the days specified after the present constitution became operative.

1882. (3682) (1073) (1308) *Right reserved to the legislature to revise and amend.*—The right is reserved to the legislature to revise or amend the provisions of this article, and in virtue of the character of the trust conferred by the act of congress, to intervene, and, by

special enactment, to direct and control the board of trustees in the discharge of their duties and functions.

1883. (3683) *Law department to receive second-hand text-books from state library.*—The justices of the supreme court are authorized from time to time to set apart and turn over to the law department of the university, copies of such second-hand or superseded law books, known as text-books, as they may deem expedient, the marshal and librarian taking proper receipts therefor.

1884. (3684) *Law department must be supplied with Codes.*—The secretary of state shall supply to such law department ten copies of the Code of Alabama and ten copies of the acts of the legislature, and ten copies of each volume of the current reports of the supreme court, as the same may, from time to time, be published.

1885. (3685) *Police of grounds; appointment, powers, and duties.*—The president of the university has authority to appoint or employ one or more suitable persons to act as police officers to keep off intruders and prevent trespasses upon and damage to the property of the university. Such person shall be charged with all the duties and invested with all the powers of police officers, and may eject trespassers from the university buildings and grounds, and may, without warrant, arrest persons guilty of disorderly conduct, or of trespass on the property of the institution, and carry them before the nearest justice of the peace or other officer charged with the trial of such offenders, before whom, upon proper affidavit charging the offense, such person so arrested may be tried and convicted as in case of persons brought before him on a warrant; and such officer or officers shall have authority to summon a posse comitatus.

1886. *Lands, sale, lease, or other disposition provided for.*—The board of trustees of the University of Alabama may sell, lease, or otherwise dispose of, all or any part of such land as has been or may be selected un-

der and by virtue of an act of congress entitled, "An act to increase the endowment of the University of Alabama from the public lands in said state," approved April 23, 1884; and may sell said lands or any interest therein or part thereof for such prices and upon such terms as to them may seem proper. Such sales may be for cash or for part cash, and the said board of trustees of the University of Alabama shall not be limited by any statute heretofore enacted as to what part of the purchase price of such lands which they have heretofore sold or may hereafter sell shall be in cash, but the per cent of the purchase price of such lands that may have been or shall be in cash, shall be such as said board of trustees of the University of Alabama may agree upon with the purchaser or purchasers.

1887. *Executive committee created and authorized to act.*—The board of trustees of the University of Alabama may create an executive committee consisting of three or more of the trustees composing the said board upon which committee it may confer full power and authority to lease sell, and convey such lands or any part thereof, or any interest therein, as fully as said board of trustees of the University of Alabama could itself do.

1888. *Sales, leases, etc., ratified and confirmed.*—All sales, agreements to sell, leases, and other dispositions of such lands, or any part thereof, or any interest therein, heretofore made or attempted to be made by the board of trustees of the University of Alabama, or by any executive committee by it created, irrespective of the per cent of the purchase price which may have been paid in cash, are ratified and confirmed, and shall be binding upon the board of trustees as fully as if the same were made after the 28th day of February, 1907, and in cases where the same were made by an executive committee, as if the same were made by the board of trustees of the University of Alabama.

1889. *Medical department of University of Alabama.*—The corporation styled the Medical College of

Alabama is dissolved, and the institution heretofore known as the Medical College of Alabama is constituted the Medical Department of the University of Alabama, and shall hereafter be under the sole management, ownership, and control of the board of trustees of the University of Alabama; but the said Medical Department shall remain at Mobile for all time. All appropriations of moneys which may hereafter be made in aid of the medical college shall enure to the benefit of the said Medical Department of the University of Alabama, and shall be paid to the trustees of the University of Alabama for the use and benefit of said Medical Department at Mobile, Alabama.

1890. *Quadrennial appropriations.*—For the quadrennial period beginning on the first day of January, 1907, the sum of one hundred thousand dollars is appropriated annually for the purpose of making needed improvements in the material equipment of said university, including the erection and furnishing of new buildings and the necessary repairs and furnishings for the buildings now in existence.

1891. *Payment of appropriations in quarterly installments; exception.*—The moneys appropriated by the preceding section shall be paid by the State treasurer in equal quarterly installments on the first day of January, April, July, and October to the treasurer of the University of Alabama upon warrants which shall be drawn by the State auditor as warrants are drawn for other appropriations to the University, but the appropriation of one hundred thousand dollars made in the preceding section shall not be available, and the State auditor shall not draw his warrant for any part of said sum, except upon the requisition of the board of trustees of the University of Alabama, or the president thereof, approved by the governor.

1892. *Report must show manner and purpose for which funds expended.*—The board of trustees of the University of Alabama shall embody in the report re-

quired by law to be made to the legislature a statement showing the manner in which, and for what purpose, the funds provided in this article have been expended.

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## ARTICLE 22.

### CEMENT LABORATORY.

1893. *Testing laboratory for cements.*—The testing laboratory of the University of Alabama is the official testing laboratory for cements and other materials of construction.

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## ARTICLE 23.

### SUMMER SCHOOL.

1894. *Summer school at university established.*—The trustees of the University of Alabama may establish at that institution a school to be known as the summer school for teachers, at which during the summer months instruction shall be given in all the public school studies, and in such other studies as may be necessary to better prepare teachers for efficient service in the public schools of this State.

1895. *Annual appropriation.*—For the maintenance of the summer school for teachers, the sum of five thousand dollars is appropriated annually.

1896. *Appropriation; how and when paid.*—The sum of five thousand dollars shall, on the first day of July of each year, be paid by the State treasurer to the treasurer of the University of Alabama, on warrants drawn by the State auditor as warrants are drawn for other appropriations to the university. The trustees of the university shall report in writing to the legislature

at each regular session thereof the manner in which the appropriation has been expended.

1897. *Matriculation or tuition fee.*—No matriculation or tuition fee shall be charged to Alabama teachers, and no incidental fee exceeding three dollars per session shall be charged any Alabama teacher.

1898. *Examinations conducted by state board of examiners annually.*—The State board of examiners for teachers shall conduct or have conducted, annually, at the university, at the close of the summer school for teachers, an examination for the convenience of teachers attending that school. The examination shall be equal in all respects to the regular examination required by law. The same fees shall be charged, and the examination shall be conducted under the same rules and regulations.

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## ARTICLE 24.

### ALABAMA POLYTECHNIC INSTITUTE.

1899. (3686) (1074) *Incorporation of the Alabama Polytechnic Institute.*—The governor and the superintendent of education, by virtue of their respective offices, and the trustees appointed from the different congressional districts of the State, under the provisions of section 266 of the constitution of 1901, and their successors in office, are constituted a body corporate under the name of "The Alabama Polytechnic Institute," to carry into effect the purpose and intent of the congress of the United States in the grant of lands by the act of July 2, 1862.

1900. (3687) (1075) *General powers, duties, and liabilities of institute.*—Such corporation shall have all the rights, privileges, and franchises necessary to a promotion of the end of its creation, and shall be charged

with all corresponding duties, liabilities, and responsibilities.

1901. (3688) (1076) *Credit of State pledged to payment of interest.*—For the payment of the interest, at the rate of eight per cent per annum, on the fund of two hundred and fifty-three thousand and five hundred dollars, arising from the sale of the script for the land donated in trust to this State by the act of congress of July 2, 1862, the faith and credit of the State are forever pledged.

1902. (3689) (1077) *Powers of board of trustees.*—The board of trustees have the power to organize the institute by appointing a corps of instructors, who shall be styled the faculty of the institute, and such other instructors and officers as the interest of the institute may require; and to remove any such instructors or other officers, and to fix their salaries or compensation, and increase or reduce the same at their discretion; to regulate, alter, or modify the government of the institute as they may deem advisable; to prescribe courses of instruction, rates of tuition, and fees; to confer such academic and honorary degrees as are usually conferred by institutions of similar character; and to do whatever else they may deem best for promoting the interest of the institute. They shall also establish and maintain a military department in the institute, and elect a commandant and such other officers as may be necessary for the department.

1903. (3690) (1078) *Classification of trustees.*—The trustees of the institute are divided into three classes, as follows: The trustees from the fourth, fifth, seventh, and ninth districts shall constitute the first class; those from the eighth, sixth, and second districts shall constitute the third class; and they shall hold office, and their seats be vacated as prescribed by section 266 of the constitution.

1904. (3691) (1079) *Vacancy in office of trustee; how filled; term of appointee.*—Any vacancy in the office of trustee, occurring during the recess of the legislature, shall be filled by appointment of the governor, such appointee to hold until the next session of the legislature thereafter; such vacancy shall be filled by the governor, by and with the consent of the senate; and any trustee appointed to fill a vacancy by the governor, by and with the consent of the senate, shall hold during the unexpired term.

1905. (3692) (1080) *Time and place of meetings of trustees.*—The board of trustees shall hold their meetings at the institute on the last Monday in June of each year, unless the board shall, in regular session, determine to hold its meetings at some other time or place; and upon the application in writing of any four members of the board, the governor shall appoint a special meeting, naming the time and place thereof, and cause notices thereof to be issued to the several members of the board, but such meeting shall not be appointed for a day less than twenty days subsequent to the date of the notice.

1906. (3693) (1081) *Quorum of board of trustees.*—Six members of the board of trustees shall constitute a quorum, but a smaller number may adjourn from day to day until a quorum is present.

1907. (3694) (1082) *Payment of expenses to trustees.*—The certificate of the president of the board, or, in his absence, of the president pro tempore, countersigned by the secretary, shall entitle the several trustees to the payment of their actual expenses incurred in the discharge of their duties as such trustees.

1908. (3695) (1083) *When gift or grant not affected; what will not operate a forfeiture.*—No grant or gift, by will or otherwise, shall fail on account of any misnomer or informality, when the intent of the grantor or donor can be arrived at; nor shall any default, malfeas-

ance, or misfeasance, or non-user, on the part of the trustees, or other officers or agents of such corporation, work a forfeiture of any of its rights, privileges, powers, or franchises.

1909. (3696) (1084) *Report of trustees to legislate.* It shall be the duty of the board of trustees to make, or cause to be made to the legislature, at each session thereof, a full report of their transactions, and of the condition of the institute, embracing an itemized account of all receipts and disbursements on account of the institute by those charged with the administration of its finances.

1910. (3697) (1085) *Interest paid by treasurer; when bond required of officers or agents.*—The State treasurer must pay the interest on the fund of two hundred and fifty-three thousand and five hundred dollars arising from the sale of land script quarterly, as the same may accrue, to the treasurer or other authorized agent or officer of the institute; and on the application of the treasurer, agent, or officer, the state auditor shall draw his warrant on the state treasurer for such interest; but in no case shall any person be authorized to receive, hold, or disburse any fund of the institute, without first having given bond conditioned for the faithful performance of his duties.

1911. *Appropriation in lieu of fertilizer tag tax; how paid.*—In lieu of the share of the proceeds arising from the sale of fertilizer tags heretofore paid to the Alabama Polytechnic Institute, the sum of thirty-two thousand dollars for one year 1907-1908, thirty-six thousand dollars for the year 1908-1909, thirty-eight thousand dollars for the year 1909-1910, and thereafter forty thousand dollars annually is appropriated to said institute, and the funds thus appropriated shall be paid out of any funds in the treasury of the state not otherwise appropriated, which appropriation shall be paid on the requisition of the president and treasurer of said institute, upon the approval of the governor.

## ARTICLE 25.

## ALABAMA INDUSTRIAL SCHOOL FOR GIRLS..

1912. *Corporate name; rights and powers of.*—“The Alabama Girls’ Industrial School,” heretofore established at Montevallo, is a body corporate under the corporate name of “Alabama Girls’ Industrial School,” and by that name may sue and contract, take and hold real and personal property, and have all the powers of a corporation established to carry on a State educational institution of the highest grade and rank.

1913. *Trustees; term of office; vacancy; how filled.*—The corporation and school shall be governed by a board of trustees composed of the governor, the superintendent of education, one trustee from every congressional district, and two trustees from the State at large. The trustees from the odd numbered districts shall hold office till the first Monday after the second Tuesday in January, 1911, and till their successors are appointed and qualified, who shall hold office for a term of eight years, and till their successors are appointed and qualified.

The trustees from the even numbered districts and from the State at large shall hold office till the first Monday after the second Tuesday in January, 1915, and till their successors are appointed and qualified, who shall hold office for a term of eight years, and till their successors are appointed and qualified, and thereafter the term of office of every trustee shall be eight years.

Whenever a vacancy occurs in the office of trustee, the governor shall appoint a successor, who shall hold office till the next meeting of the legislature, when the governor, by and with the advice and consent of the senate, shall appoint a trustee, who shall hold office for the unexpired term.

Upon the expiration of the term of office of any trustee the governor shall, by and with the advice and consent of the senate, appoint a successor.

A trustee shall be ineligible to be elected to any office by the board of trustees.

1914. *Purposes for which school established.*—The school is established for the purpose of giving therein instruction in the liberal arts and sciences, and the following academic departments are established, for every one of which a professor shall be selected as hereinafter provided, namely:

1, English—literature and expression; 2, mathematics; 3, history and political economy; 4, psychology and education; 5, ancient languages; 6, modern languages; 7, chemistry and geology; 8, physics and astronomy; 9, biology—botany, floriculture, and horticulture.

And the following industrial departments are established, for every one of which a director shall be selected as hereinafter provided:

1, Art—drawing, painting, and designing; 2, vocal music; 3, instrumental music; 4, commercial—book-keeping, stenography, typewriting, telegraphy; 5, domestic art—sewing, millinery, dress-making; 6, domestic economy—cooking, chemistry of foods; 7, dairying; 8, physical culture; 9, manual training.

And the trustees shall, from time to time, establish and maintain departments wherein every other branch of human knowledge or industry by which women may live shall be taught.

The trustees may leave vacant the office of professor or director in any department, as the best interests of the school may require, and cause instruction to be given therein by some competent instructor selected as the professors and directors are selected.

The president, professors, and directors shall constitute the faculty of the school.

1915. *Powers to confer honorary degrees, diplomas, certificates, etc.*—The trustees of the school, by and with the advice and consent of the president and faculty, may confer regular and honorary degrees upon such persons as they deem worthy thereof, and may grant and confer degrees, diplomas, or certificates of proficien-

ey or distinction upon such students as may be entitled thereto under the laws established by the trustees governing this subject.

1916. *President; election and qualifications of.*—The trustees shall elect a president for a term to be fixed by them, who shall not be removed during the term for which he is elected, except for just cause, which shall be explicitly set forth in writing in the minutes of the proceedings of the trustees and approved by a majority of all the trustees. No person shall be eligible to the office of president unless he is a graduate of some college or university of well-known high standing, an educator by profession, of good moral character, and possessing good business and administrative qualifications, and if a man, must be a married man. The trustees shall fix the salary of the president before electing a person to the office, and shall not decrease the amount thereof during the term of office without the consent of the president.

1917. *Departments; professors and directors; how chosen.*—The trustees shall establish such additional departments, academic and industrial, in the school as they deem necessary and proper, and fix the salary or compensation to be paid to the professors, directors, and instructors therein. The president of the school shall by and with the advice and consent of the board of trustees, appoint all of the professors, directors, and instructors of all of the departments in the school. Whenever a nomination is rejected by the trustees the president, if he so desires, shall have reasonable time within which to make another nomination, but he shall not have the power to nominate any person rejected within one year thereafter. Should the president fail or refuse to nominate any one to be a professor, director, or instructor, the trustees shall elect such professors, directors, and instructors as they deem necessary or proper.

1918. *Secretary of trustees.*—The trustees shall elect a secretary, who shall hold office for the term and receive

such compensation as may be fixed by the trustees, and shall perform such services as may be required of him.

1919. *Treasurer; election, duties, and bond of.*—The trustees shall elect a treasurer, who shall not be a trustee, who shall receive, hold, and pay out all moneys belonging to the school, or that may be paid in for the necessary expenses of any student in the school, or for her use and benefit, and the treasurer shall hold office for the term and receive such compensation as may be fixed by the trustees. Before entering upon his duties the treasurer must give bond in such penalty as the trustees may fix, payable to "The Alabama Girls' Industrial School," with conditions that he will faithfully receive, safely keep, and lawfully pay out, and promptly, fully, and fairly account for all moneys or choses in action which may come to him by virtue of his office, and the trustees may require a new bond, or an additional bond, whenever they judge that the interest of the school requires it.

1920. *Removal of treasurer.*—Whenever the funds in the hands of the treasurer, or about to be received by him, are in danger of being lost, the trustees may remove the treasurer from office and take from him all funds and choses in action belonging to the school or any pupil therein, and may, in that event, appoint a temporary custodian with bond or security to hold such funds.

1921. *Books of institution kept; must be open to inspection.*—The secretary, treasurer, and all other officers, agents, or servants of the school who are required to keep, use, or dispose of any property or supplies of the school, shall keep accounts of their transactions in books to be furnished them by the trustees, which shall at all times be open to the inspection and examination of the president, the trustees, or any one appointed by the trustees thereto, and any person withholding such book or books belonging to the school from the inspec-

tion of any officer entitled to examine the same, shall be immediately removed from his office or employment by the president or trustees.

1922. *Pupils admitted; qualifications of.*—Any white girl residing in Alabama, of good moral character, in good health, and of sufficient physical and mental development, to be judged of by the president, and over the age of fifteen years, who shall comply with all the requirements prescribed by the trustees, may be admitted into the school, and upon completing the course of study prescribed at the time of her admission, to the satisfaction of the faculty, shall receive the degree and diploma or certificate she may have earned. Whenever the accommodations of the school are sufficient to admit more students than apply from Alabama, then students from other states, territories, or foreign countries may be received and instructed in the school upon such terms and conditions as may be imposed by the trustees.

1923. *Property exempt from taxation.*—The property of the school, of every kind and description, shall forever be exempt from all taxes, municipal, county, or State, and from all local assessments. The president, and all other teachers and officers, who may be men, are exempt from jury duty and from working public roads or streets; and the salary, wages, or compensation of all officers, teachers, and servants of the school shall be exempt from the process of garnishment or attachment.

1924. *Scholarships.*—Every trustee of the school shall have the right to appoint one student possessing the qualifications hereinbefore prescribed, who shall be boarded and instructed in the school free of all charges for board, washing, lights, books, and incidental fees, but a student shall not be eligible to appointment for more than four years, nor shall any girl be appointed under this provision who is able to pay for her education, or whose parents, or either of them, have the ability to pay for her education in the school.

1925. *Duties of students.*—As far as may be practicable students in the school shall be employed in giving assistance in any department of work of the school to enable them to obtain instruction therein, but students shall be employed only in cases and to the extent that they may be able to render efficient service without injury to themselves or to the school.

1926. *Rights confirmed, etc.*—All rights of property in action which may have accrued to the school before the adoption of this code are confirmed and preserved, and no grant or gift of any valuable thing or right shall fail by reason of a mistake in the name of this corporation or school; provided the intention to grant or give to this school may be derived from the words used in designating the beneficiary or grantee. All rights, powers, and remedies granted in and by an act to create and establish an industrial school in the State of Alabama for white girls, approved February 21, 1893, and any act amendatory thereof, are confirmed and preserved.

1927. *Instruction free.*—Instruction in the school shall be given without charge to all pupils admitted who are residents of this State.

1928. *Power to condemn property.*—Whenever the school needs any land near the school for any purpose of the school, and the owner thereof is a minor or an insane person, or refuses to sell the land to the State for the use of the school, the trustees shall have authority to institute in the probate court of Shelby county proceedings in the name of the State of Alabama, to condemn such land, which proceedings shall be conducted as near as may be possible in accordance with the provisions of sections 3860-3903 (1712-1742) of the Code. It shall be the duty of the trustees to pay out of the funds of the school all costs of every condemnation proceeding instituted by them under the power hereby conferred.

1929. *Appropriation for girls' industrial school.*—For the regular maintenance of the Alabama Girls' Industrial School there is appropriated, annually, thirty-six thousand dollars, to be paid in quarterly installments of nine thousand dollars to the treasurer of the school upon the order of the president of the school.

1930. *Title to and sale of lands of industrial school for girls.*—The title to all lands granted by the congress of the United States to the State of Alabama, "for use of" said industrial school, is retained until the trustees of the school shall sell the same, which sale shall be made only with the approval of the governor, and when any sale shall have been made, the governor, upon the request of the trustees, shall convey the lands sold to the purchaser, and all the proceeds arising from the sale of lands shall be paid into the treasury of the State to remain forever as a fund for the use of the school, and upon which there shall be paid to the school interest at the rate of six per cent per annum, in quarterly installments.

1931. *Deposit of proceeds of sales, leases, etc., of school lands; payment of expenses of selling, etc.*—The proceeds of all lands sold or leased by the Alabama Girls' Industrial School shall be paid into the State treasury, and the school, out of the money appropriated by the State for the maintenance of the school, shall pay all the expenses of caring for, protecting, and selling the lands.

1932. *Interest on land fund paid quarterly.*—On the last day of every quarter the State treasurer shall pay to the treasurer of the Alabama Girls' Industrial School, upon the order of the president of the school, interest at the rate of six per cent per annum on the whole amount of the fund in the State treasury at the close of every quarter, arising from the sale of lands, and upon every sum paid into the State treasury before the current quarter upon which interest has never been paid; and all laws or parts of laws in conflict herewith

are hereby expressly repealed. It being the purpose and intent of the State of Alabama to execute in good faith the trust reposed in it by congress when granting the lands to the State for the benefit of the school, and to preserve the proceeds arising from the lease or sales of the lands of the school so granted by congress as a fund forever, and to pay the interest thereon for the support and maintenance of the school.

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## ARTICLE 26.

### ALABAMA INSTITUTE FOR THE DEAF.

1933. (3698) (1086) (1311) (1025) *Educational institution for the deaf established.*—There is established in this State and located at Talladega, an institution for the education of the deaf, called the Alabama School for the Deaf.

1934. (3699) (1087) (1312) (1026) *Incorporation of such institution.*—The governor, the superintendent of education, and eleven other persons, appointed as hereinafter provided, are made a body corporate, with the rights of succession forever, by the name of the Alabama School for the Deaf; and such corporation may acquire and hold property, real and personal, by gift, devise, or any other manner, for the purpose of its creation; may sue and contract; may have and use a common seal; break or alter the same at pleasure, and may have all the powers necessary and proper to accomplish the purposes of this article.

1935. (3700) (1088) (1313) (1027) *Eleven trustees appointed by the governor; board of trustees.*—Such board of trustees shall consist of the governor, the superintendent of education, and eleven other persons, who shall be appointed by the governor and confirmed by the senate at the meeting of the legislature next following such appointment, and if any appointment by the governor is rejected by the senate, the governor must

again appoint until the full number of appointments at such time is complete; and in case of a vacancy on said board by death or resignation of a member, or from any cause other than the expiration of his term of office, the governor may fill the vacancy by appointment, which shall be good until the next meeting of the legislature, and until his successor is duly appointed and confirmed. Each trustee shall hold office for a term of six years. The board shall consist of three members from the congressional district in which the school is located, and one from each of the other congressional districts in the State. The three members from the district in which the school is located shall be appointed from Talladega county. The board shall be divided into three classes. The members from the first, second, third, and one member from the fourth district, shall compose the first class. The members from the fifth, sixth, and one member from the fourth district, shall compose the second class. The members from the seventh, eighth, ninth, and one member from the fourth district, shall compose the third class. Successors to those trustees whose terms expire in 1908 shall hold office until 1914; successors to those trustees whose terms expire in 1910 shall hold office until 1916; successors to those trustees whose terms expire in 1912 shall hold office until 1918; and thereafter their successors shall hold office for a term of six years; and the members of the board of trustees, as now constituted and elected, shall hold office until their respective terms expire under existing law; and until their successors are appointed and confirmed as herein required. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such. These eleven persons, and the governor and the superintendent of education, constitute a board of trustees who shall have entire management and control of such institution.

1936. (3701) (1089) (1314) (1028) *Quorum and meetings of board; secretary and treasurer.*—A majority of such board may act, and may meet and adjourn from time to time as, in their judgment, the interest of

the institution may require. They must appoint a secretary and keep a complete record of all their proceedings in a well-bound book; and they shall also appoint a treasurer, who shall not be a trustee, who shall give bond in such amount as the board may determine, and with such sureties as they may deem sufficient, for the faithful discharge of his duties as such treasurer; and he and his sureties shall be responsible for all funds which may come into his hands by virtue of his office.

1937. (3702) (1090) (1315) (1029) *Duties of treasurer.*—The treasurer must pay over such funds as may come into his hands as such on the written order of the principal of the school, countersigned by the secretary and recorded in the minutes or records of the proceedings of the board, kept by such secretary, and the treasurer shall make a full report at the close of the fiscal year, and oftener, if required by the governor.

1938. (3703) (1091) (1316) (1030) *President of board; teachers; compensation of officers.*—The board must appoint from their number a president, and they must also appoint a principal teacher for such institution, who may nominate to the board such other assistants in the institution as he may think necessary for its successful management, such board having power of confirmation or rejection. The board must fix the amount of compensation for each of the officers and teachers, and the time of payment.

1939. (3704) (1094) (1319) (1032) *Object of the school; application and admission; term of pupilage.*—The object of such school shall be to afford the means of education to the deaf of the State. All deaf children of the State between the ages of seven and twenty-one, who are of sound mind, free from disease, and of good character, may be admitted to the benefits of this school. All applicants must make satisfactory proof to the board of trustees that they are citizens of the State, and that they are proper candidates for admission. Proof may be made by the applicant in person, or by next friend, or

by affidavit of any person cognizant of the facts, before the probate judge or notary public. The length of time which any pupil may continue in school shall not exceed ten years. Provided, however, that the board of trustees may increase the term of a pupil from year to year upon recommendation of the principal, to not exceeding four additional years, and no pupil shall be retained in school after having passed the age of twenty-five. No pupil shall be retained in school after it has been ascertained that such pupil has ceased to make progress or is not being benefited. Any pupil may be dropped at any time for cause by the board of trustees.

1940. (3708) (1098) (1323) *Selection and powers of executive committee.*—The board may select from their number an executive committee of three, subject to change and removal by the majority of the board at any time; and such committee is authorized to meet and transact any business that may be transacted by a majority of the board; and whatever acts such committee may do shall be considered as done by the whole board.

1941. (3710) *Appropriations for each pupil.*—For the maintenance and the support of the Alabama School for the Deaf the sum of two hundred and thirty-five dollars per pupil is hereby annually appropriated out of any money in the treasury not otherwise appropriated, such an appropriation to be based upon the number of pupils enrolled on the first day of January in each year, and to be drawn quarterly in advance by the treasurer of the board, and disbursed as directed by them.

1942. (3711) *Property to be insured and kept in repair; appropriation therefor.*—The board of trustees must provide good and sufficient insurance, payable to the State of Alabama, upon the property of the State and under their control, and keep and maintain such property in good repair; and for these purposes there is annually appropriated the sum of one thousand dollars, to be drawn as appropriations for the support of the

institute are drawn. Such appropriation shall be expended only for the purposes herein specified.

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## ARTICLE 27.

### ALABAMA ACADEMY FOR THE BLIND.

1943. (3712) *Educational institution for the blind established.*—There is established in this State and located at Talladega, an institution for the education of the blind, called the Alabama School for the Blind.

1944. (3713) *Control and management.*—Such institution is under the control and management of the board of trustees of the Alabama School for the Deaf, who may prescribe rules and regulations for the conduct of the same. The principal for the Alabama School for the Deaf is the chief executive officer.

1945. (3714) *Object of school; application and admission; term of pupilage.*—The object of such school shall be to afford means of education to the blind of the state. All blind children of the state between the ages of seven and twenty-one who are of sound mind, free from disease, and of good moral character may be admitted to the benefits of this school. All applicants must make satisfactory proof to the board of trustees that they are citizens of the state, and that they are proper candidates for admission. Proof may be made by the applicant in person, or by next friend, or by affidavit, or by affidavit of any person cognizant of the facts, before a probate judge or notary public. The length of time which any pupil may continue in school shall not exceed ten years; provided the board of trustees may increase the term of any pupil from year to year, upon the recommendation of the principal, to not exceeding four additional years. And no pupil shall be retained in school after having passed the age of twenty-five. No pupil shall be retained in school after it has

been ascertained that such pupil has ceased to make progress or not being benefited. Any pupil may be dropped at any time for cause by the board of trustees.

1946. (3716) *Appropriations for each pupil.*—For the maintenance and support of the Alabama School for the Blind the sum of two hundred and thirty dollars per pupil is hereby annually appropriated, such appropriation to be based upon the number of pupils enrolled on the first day of January of each year, and to be drawn quarterly in advance by the treasurer of the board, and disbursed as directed by them.

1947. (3717) *Officers and teachers.*—All officers and teachers of such institution must be appointed, and the salaries fixed and paid in like manner as the officers and teachers of the Alabama School for the Deaf are appointed and their salaries fixed and paid.

1948. (3719) *Laws relating to the Alabama School for the Deaf applicable.*—All laws now in force or hereafter enacted relating to the admission of pupils and the management and control of the Alabama School for the Deaf are applicable to the Alabama School for the Blind, except so far as such laws may be inconsistent with the provisions of this article.

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## ARTICLE 28.

### ALABAMA SCHOOL FOR NEGRO DEAF MUTES AND BLIND.

1949. (3720) *Educational institutions for negro deaf and blind established.*—There is established in this state and located at Talladega, an institution for the education of negro deaf and blind, called the Alabama School for Negro Deaf and Blind.

1950. (3721) *Control and management.*—Such institution is under the control and management of the

board of trustees of the Alabama School for the Deaf, who may prescribe rules and regulations for the conduct of the same. The principal of the Alabama School for the Deaf is the chief executive officer.

1951. (3723) *Object of school; application and admission; term of pupilage.*—The object of such school shall be to afford the means of education to the negro deaf and blind of the state. All negro deaf and blind children between the ages of seven and twenty-one who are of sound mind, free from disease, and of good character, may be admitted to the benefits of the school. All applicants must make satisfactory proof to the board of trustees that they are citizens of the state, and that they are proper candidates for admission. Proof may be made by the applicant in person, or by next friend, or by affidavit of any person cognizant of the facts, before a probate judge or notary public. The length of time which any pupil may continue in school shall not exceed ten years; provided, the board of trustees may increase the term of a pupil from year to year, upon the recommendation of the principal, to not exceeding four additional years. No pupil shall be retained in school after having passed the age of twenty-five. No pupil shall be retained in school after it has been ascertained that such pupil has ceased to make progress, or is not being benefited. Any pupil may be dropped at any time for cause by the board of trustees.

1952. (3725) *Appropriations for each pupil.*—For the maintenance and support of the Alabama School for Negro Deaf and Blind the sum of two hundred and thirty dollars per pupil is hereby annually appropriated, such an appropriation to be based upon the number of pupils enrolled on the first day of January in each year, and to be drawn quarterly in advance by the treasurer of the board, and disbursed as directed by them.

1953. (3726) *Laws relating to the Alabama School for the Deaf applicable.*—All laws now in force or hereafter enacted relating to the admission of pupils and

the management and control of the Alabama School for the Deaf, are applicable to the Alabama School for Negro Deaf and Blind, except so far as such laws may be inconsistent with the provisions of this article.

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## ARTICLE 29.

### REFORMATORY AND INDUSTRIAL SCHOOL.

1954. *Corporate name; rights and powers.*—There is established a reformatory and industrial school, under the name and style of the "Alabama Industrial School," which is a body corporate, and, as such, shall have perpetual succession, may sue, and may have and use a common seal, which it may change or alter at its pleasure, and may acquire by purchase, or by condemnation proceedings in the probate court of Jefferson county, in the name of the State of Alabama, such property, real and personal, as may be necessary or proper for its purposes, and may ave and exercise all such powers and privileges as may be necessary or proper for carrying out the purposes of its organization, as herein declared.

1955. *Directors nominated by governor; terms of office.*—The business, property, and affairs of the corporation shall be under the management and control of a board of directors, which shall consist of seven ladies and the governor, the commissioner of agriculture and industries, and the attorney-general of the state, who shall be ex officio directors. The ladies constituting the first board of directors shall be nominated by the governor and confirmed by the senate, and those thus nominated and confirmed shall hold, two for two years, two for four years, and three for six years; those holding for these respective terms to be designated by the governor in making nominations therefor to the senate. Thereafter the lady members of said board shall be elected by the continuing members thereof at the expiration of their respective terms; and all vacancies caused by death, resignation, or otherwise, shall be filled by the

board. The term of office of each member of the board, after the expiration of the first term, shall be for six years.

1956. *Officers, agents, and employes.*—The board of directors shall elect a president, vice-president, secretary, and treasurer, and such other officers, agents, and employes as to them shall seem necessary or expedient, whose term of office or employment shall be for such time as the board may prescribe; and the board may remove any such officer, agent, or employe at any time, with or without cause. The board may also fill all vacancies occurring in any such offices.

1957. *By-laws.*—The board of directors may make such by-laws, rules, and regulations, not inconsistent with the laws of this state, as shall be necessary or expedient for the government and management of said institution, and of its officers, agents, and employes, with power to alter, modify, change, or repeal the same.

1958. *Meetings of board.*—The board shall meet annually, at such time and at such place as may be prescribed by the by-laws; and special meetings may be held at the call of the president, or of the governor, or of a majority of the lady directors, upon such notice as may be prescribed by the by-laws.

1959. *White children between ages of six and eighteen provided for.*—Said school shall receive, care, and provide for the welfare of white boys between the ages of six and eighteen, who, by their course of conduct or surroundings, are likely to become base or criminal, or hurtful to the state or the best interests of society, to be committed to the keeping of said school under the provisions of this article, or who may be voluntarily committed to its keeping by the parent or parents, or person having them in charge, or who, having no parent, guardian, or other person to care for them, voluntarily commit themselves to its keeping.

1960. *Commitment of children to reformatory.*—Any justice of the supreme court, chancellor, judge of probate, circuit judge, or judge of any city or criminal court of this state, may cause to be brought before him, upon his own motion, or the sworn complaint of another, any white boy between the ages of six and eighteen years who may come within any of the following descriptions, to-wit: Any white boy who is begging, or any one who is offering for sale or selling anything as a mere cover for begging. Any who have been abandoned by their parents, or who have abandoned their parents and homes, and have no visible means of support. Any who do not attend the public schools, and idle away their time in the streets, without any actual occupation or means of support. Any who are orphans, and have no sufficient or proper guardian to care for their physical, moral, and mental welfare, to insure the child against pauperism and crime. Any who may be found destitute, or whose parents are both drunkards, or whose mother is a drunkard, lewd, or in prison; and such child is not supported and controlled. Any who shall have been arrested and brought before police courts repeatedly for petty offenses, and shall appear to be beyond control of parents. And upon any such child being brought before him, such judge shall proceed, at such time as he may appoint, to investigate the condition and surrounding of such child, and upon such investigation, if he shall be satisfied that the child comes within any one of said descriptions, and that it would be for the interest of such child that he or she be committed to said institution, he will make an order to that effect and commit the child to said institution, to be held and provided for under its rules and regulations. At any such investigation, the judge holding the same shall allow any one to appear for the child and resist such commitment; and he shall not make any such commitment if the parent, guardian, or a person who is related to the child within the fourth degree, and sufficiently qualified in his opinion to take care of and provide for the child, will appear and agree in writing to take care of and provide for the child until he shall arrive at the age of sixteen years.

1961. *Appeals from decision committing child.*—Any child brought before any judge for such commitment, or any person for such child, may within five days, appeal from the decision of the judge committing him, to the circuit or city court held in the county in which such investigation is had, upon giving bond, with sufficient sureties, to be approved by the judge, and in such sum as may be fixed by him, to have the child forthcoming when the appeal is heard; and if the appeal be taken by any person for the child, the bond shall further provide for the maintenance of the child until said appeal is disposed of. If, upon hearing of the appeal, the decision of the judge causing the commitment is sustained, the child shall be committed by the court to said institution; but if that decision is not sustained, the child shall be discharged. And the judge before whom such investigation is made, or to be made, may issue all process that may be necessary to have the child brought before him, or for commitment; and such process shall be executed by the sheriff of the county.

1962. *Time children shall be kept in reformatory.*—Any child committed to said institution under the provisions of this article shall be kept therein until he arrives at the age of twenty-one years, unless sooner dismissed therefrom by the order of the board of directors, or in pursuance of any by-law of the institution, or by order of the governor of the state.

1963. *Reports to legislature.*—The ex officio members of the board shall at least once a year visit the institution and examine into its management and condition; and at each session of the legislature they shall make to that body a report touching the institution and its management and condition.

1964. *Criminal children sentenced to school.*—When any white boy between the ages of seven and sixteen years shall have been tried and convicted of any crime punishable by imprisonment in the penitentiary, or in jail, or by hard labor for the county, before any court of

this state, the court may, if of the opinion that the interests of the child would thereby be promoted, sentence such child to commitment to said school, in lieu of such imprisonment, or hard labor for the county.

1965. *May receive children without authority of court.*—Said institution may, in its discretion, receive any child placed in its care and keeping by its parent or parents, without the authority of any court, and may keep said child until it is twenty-one years of age; but this shall not be done without first making provisions for the maintenance of said child under the rules and regulations of said institution.

1966. *Exclusive custody of children who are committed.*—From the time of the lawful reception of any child into the institution, and during its stay, said institution shall have the exclusive care, custody, and control of the child, under such rules and regulations as the board of directors may provide.

1967. *Instructions given children committed.*—The officers of said school shall receive and take into it all children committed thereto by competent authority, or received therein as aforesaid, and shall cause all children in the school to be instructed in such branches of useful knowledge as may be suited to their years and capacities. The boys shall be taught such useful trades as the board may direct, and they shall be taught according to the course of the public schools of the state.

1968. *Treasurer of school; bond of.*—The treasurer of the school shall, before entering upon the discharge of the duties of office, execute bond, payable to the "Alabama Industrial School," with good and sufficient sureties, and in such sum as the board of directors may prescribe, and with condition to faithfully discharge the duties of his office.

1969. *Detention and keeping of children; authority for.*—Any commitment under this article, whether by

judge, court, or parent, or other person having in charge the child, shall be full, sufficient, and competent authority to the officers and agents of said school for the detention and keeping therein of the child so committed.

1970. *Convict children separated from others.*—Provision shall be made for the care of convict children, separate and apart from the other children, so far as the same can be done with the means at hand.

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## ARTICLE 30.

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### PREPARATORY SCHOOL FOR MINES AND MINING.

1971. *Incorporation and name.*—J. J. Mayfield, E. N. C. Snow, Hugh Morrow, T. H. Aldrich, H. W. De-Bardeleben, J. Collier Foster, and S. Friedman, and their successors in office, are a body corporate, to be known and styled "A preparatory school for mines and mining for the State of Alabama," for the purpose of preparing the white children of Alabama for the study and pursuit of the science and art of mining.

1972. *Location and powers of.*—The situs and place of business of said corporation shall be at Tuscaloosa, Alabama; said corporation may own, possess, and receive by gift, purchase, grant, or devise, or in any other manner, real and personal property, so long as the same may be used for the school purposes, or in any wise contributing to the maintenance or preparing and instructing the white children of the state in the arts and sciences of mining. And the said corporation may dispose of said property by sale, grant, or otherwise, and shall have all other powers necessary to carry into effect and operation the objects and purposes for which the corporation is established, or which have been heretofore granted by the state to other educational institutions not inconsistent with the provisions of this article.

1973. *Faculty; election and term of office.*—The trustees of said corporation shall elect the professors and teachers in said school, and fix their salaries and terms of office, who shall constitute the faculty of said school, which shall institute and prescribe a course of studies to be pursued in said school, and the said faculty so constituted may issue certificates of proficiency to the students in said school. A majority of the trustees heretofore appointed shall constitute a quorum for the transaction of all business in behalf of this corporation.

1974. *Trustees; classification and terms of office.*—The trustees hereinbefore appointed and named shall be divided into five classes, viz.: Classes one, two, three, four, five and each class shall hold office respectively for the terms of one, two, three, four, and five years each, classification to be determined in the order in which they are named in the first section of this article; at the expiration of the respective terms of each of said trustees his successor shall be elected by a majority of the other trustees; provided, that after the expiration of the term of the trustees herein named, in the manner herein provided, the term of the office as to all successors shall be for five years, and until their successors are elected and qualified.

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## ARTICLE 31.

### SCHOOL HOUSES.

1975. *Appropriation for schoolhouses; disbursement of.*—The sum of sixty-seven thousand dollars shall be appropriated annually, or so much thereof as is necessary, out of the proceeds arising from the sale of fertilizer tags by the commissioner of agriculture and industries, for the purpose of aiding in the erection or repairing of rural schoolhouses in this state.

1976. *Limitation of appropriation to any one county.*—Not more than one thousand dollars of this appropriation shall be used or paid out in any one county of this state in a separate fiscal year.

1977. *Application of school districts for part of appropriation.*—The district trustees of any school district, no part of which lies in an incorporated city, town, or village, having secured bona fide donations or subscriptions of not less than one hundred dollars for the purpose of building or repairing a public schoolhouse in their district, may make application to the county superintendent of education to receive the benefits of this article.

1978. *Filing and submitting application to county board.*—The county superintendent of education shall file such application and make a record of same, and submit it to the county board of education.

1979. *Consideration of application by county board.*—The county board of education shall consider and investigate all applications filed, shall approve such as seem just and necessary, giving preference to the most needful.

1980. *Record of consideration of applications; contents.*—The board shall record their proceedings, showing the applications approved by them, the amounts of the donation or subscription and the amount of money which the board recommends to be given to such district.

1981. *Amount of appropriation.*—The amount so recommended for any district shall in no case exceed the amount secured by donation and subscriptions; nor shall the total for any schoolhouse exceed two hundred dollars.

1982. *Plans and specifications for schoolhouses; how furnished.*—No appropriation shall be made for the

building of a schoolhouse unless said schoolhouse is built in accordance with the plans and specifications either furnished by or approved by the state superintendent of education.

1983. *Area of schoolhouse lot.*—No money shall be appropriated for the erection of a new schoolhouse building on a plat of ground of less dimensions than two acres.

1984. *County board certifies to state superintendent of education application approved.*—The county boards of education shall certify to the superintendent of education, in writing, showing the county from which applications approved by them come, the amount or sum of money recommended by said board to be given to such districts, and such statement shall be signed by the county superintendent of education, giving his postoffice address.

1985. *State superintendent orders warrant; auditor issues same.*—Upon the receipt of the certificate by the superintendent of education, he shall request the state auditor to draw his warrant on the state treasurer for the sums or amounts specified therein, and shall lay before the state auditor the statements and information he may possess; the state auditor shall draw his warrant on the state treasurer for the amount of money to be given to each school district, as shown by the certificate, and he shall make each of said warrants payable to the county superintendent of education of the county wherein such districts are situated, and shall indicate thereon for the benefit of what public school district the same is issued.

1986. *Delivery and forwarding of warrants.*—Such warrants shall be delivered to the superintendent of education, and he shall forward the same to the different county superintendents of education as the same are payable.

1987. *Statements filed and kept.*—The statements from which said warrants are made up shall be delivered or returned to the state superintendent of education by the state auditor, after he has had the use of the same in the issuance of said warrants, and shall be safely kept in the office of the state superintendent of education.

1988. *Receipts for warrants and proceeds thereof.*—All persons or officers receiving any warrant or the proceeds thereof issued under this article shall execute a receipt to the person or officer from whom he receives the same, describing such warrant.

1989. *Payment of warrant to district trustees.*—Whenever it shall be shown to the satisfaction of the county superintendent of education that the erection or repair of a public schoolhouse has been commenced and the amount of subscription or donation secured and a deed has been executed, conveying to the State of Alabama for the benefit of said district the lot or parcel of land on which said public schoolhouse is being erected or repaired, the county superintendent shall endorse and deliver to the district trustees said warrant and the amount or sum of money named in the same shall be paid to said trustees or to their successors in office, the proceeds of which shall be applied by the trustees to the building or repairing of the public schoolhouse for which such warrant was issued.

1990. *Account with each county to be kept by state superintendent of education.*—The state superintendent of education shall, in a book kept by him for that purpose, open an account with each county in this State, and shall charge against that county the amount of each warrant issued under this article for the benefit of any of the public school districts of such county.

1991. *Warrants not delivered by county superintendent of education.*—Any of the warrants not delivered by the county superintendent of education by reason of

failure of the district to comply with the requirements of this article, shall, after the lapse of six months from the receipt of same by the county superintendent of education, be by him returned to the state superintendent of education, and by him marked cancelled, and if the same has been charged against the county in the book kept under the preceding section, an entry shall be made therein crediting the account of said county with each of such cancelled warrants.

**1992. Unexpended balance carried forward.**—If, at the end of any year, the whole appropriation for that year has not been exhausted, the state auditor and the state treasurer shall carry the unexpended balance forward, and this balance shall be available, in addition to the regular appropriation for the current year.

**1993. Warrants, and the proceeds thereof; how used.**—The proceeds of all warrants issued under this article shall be used only for the erection or the repair of the public schoolhouses in the district for the benefit of which they shall be issued, and it shall be unlawful to use or apply the same to any other purpose whatsoever.

#### PROCEEDINGS FOR AND AGAINST COUNTY SUPERINTENDENTS OF EDUCATION. (CIVIL CODE.)

**5940. Against county superintendent for balance in his hands.**—Summary judgments must be rendered on motion, after ten days notice, in the circuit court, or other court having jurisdiction of the amount, of the county in which the defendants, or either of them, reside, against any county superintendent of education who has resigned, removed from the county, or been legally removed from office, or whose term of office has expired, and his sureties, or any or either of them, in favor of his successor, if there be one, or if there be no successor, in favor of the superintendent of education, for the amount

of school moneys belonging to his county, which have not been legally disbursed by him, or paid over to his successor in office, with interest from the time of the default, and twenty per cent damages and costs; and the money, when recovered by the superintendent of education, must be turned over to the county superintendent of education.

5941. *Authority to employ counsel.*—The county superintendent of education may employ attorneys to prosecute actions under the provisions of this article against such defaulters and their sureties; but in no case shall any attorney receive more than ten per cent of the amount which may be collected on any judgment obtained by him, or of the amount which may be otherwise recovered by him.

5942. *Notice.*—The notice of such motion may be served by any sheriff of this state, and must succinctly state the cause for which, and the court and term at which, the motion will be made.

5943. *Transcript of superintendent of education evidence.*—On the trial of such motion, a transcript from the books and records in the office of the superintendent of education or of the state auditor, duly certified under his hand, shall be *prima facie* evidence of the facts shown by them.

5944. *Time and manner of trial.*—If the notice has been given as herein required, such motion shall stand for trial at the first term, and the court must hear and determine the same, and render judgment upon the evidence without a jury, unless a trial by jury shall be demanded, when a jury must be immediately impaneled to try the issues of fact, unless good cause be shown for a continuance.

5945. *In favor of teachers for moneys due them; court and notice; appeal from justices' court.*—Summary judgment may also be rendered against the coun-

ty superintendent of education and his sureties, or any or either of them, in favor of any teacher of the public schools, his legal representative, or assignee, by motion, on ten days' notice, in any court of the county of such superintendent, of competent jurisdiction, for failing to pay over, on demand, to such teacher any moneys in the hands of such superintendent due or owing such teacher, as required by law, for the amount of such moneys, with interest from the time of the demand, and ten per cent. damages on the aggregate amount, and costs; but from all cases tried before a justice of the peace, or notary public ex-officio justice of the peace, either party shall have the right to appeal as provided by law in other cases decided before such officer.

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#### CITY AND TOWN SCHOOLS UNDER MUNICIPAL GOVERNMENT.

1348. *Schools; regulation of.*—Cities and towns shall have power to establish, maintain, and regulate public schools in which children from seven to twenty-one years of age, bona fide residents of and living within the corporate limits of such city or town, shall be entitled to admission ;and non-residents shall be admitted on such terms as the board of education may prescribe, and separate schools shall be provided for children of African descent.

1349. *Education; board of.*—In cities having a population of six thousand or more, the management and control of the public schools therein shall be vested in a board of education, which shall be composed of five members, who shall serve without compensation, and shall be qualified electors and residents of the respective cities, and who shall not be members of the city council. At the first regular meeting of the council in April, or as soon thereafter as may be practicable, at any regular meeting, the council shall elect the members of the board of education, whose terms of office respec-

tively shall be one, two, three, four, and five years. Annually thereafter at the first regular meeting in April, or as soon thereafter as may be practicable, at a regular meeting, the council shall elect a member, whose term of office shall be five years, to succeed the member of the board of ducation whose term expires that year. In the event of a vacancy in the membership of the board, by resignation or otherwise, the fact shall be reported to the city council by the board, and the council shall elect a person to fill such vacancy for the unexpired term.

1350. *Election of officers of board of education.*—At its first regular meeting in May, after the election of said board, or as soon thereafter as practicable, and annually thereafter, the board shall elect from its membership a president and vice-president. It shall also elect a clerk, who need not be a member of the board, and may fix his compensation. The vice-president shall perform the duties of the president only when the president may be absent from the city or unable to perform his duties. The board may fill any vacancy occurring from any cause in any of the offices mentioned in this section.

1351. *School property; how held.*—All property, real and personal and mixed, now held or hereafter acquired for school purposes, shall be held in trust for the use of the public schools of the city or town, and no sale or purchase of real estate shall be made by any other than the city council of such city or town. The board of education shall have full and exclusive power, within the limits of the revenue appropriated for such purpose or accruing to the use of the public schools, to purchase fixtures, furniture, apparatus, libraries, fuel, and supplies for the use of the schools, and to sell the same, and to make expenditures for the maintenance and repair of the school ground, buildings, and other property, to establish and build new schools, when sites have been provided by the city council, and to superintend the erection thereof, to make additions, alterations, and repairs to the buildings and other property devoted to school

uses, and to make necessary and proper regulations, contracts, and agreements in relation to such matters. All such contracts shall inure to the benefit of the public schools, and any suit at law or in equity, brought upon them, and for the recovery and protection of money and property belonging to and used by the public schools, or for damages, shall be brought by and in the name of the city.

1352. *Appropriation for schools.*—Each year the board of education shall make an estimate in detail of the amount of money required for the proper support and maintenance of the public schools during the next ensuing scholastic year, which shall be submitted to the city council, and the city council shall make annual appropriations for the support and maintenance of the schools that it may deem necessary and proper in view of all other needs of the government of the city and of the expected revenues from taxes and otherwise. Money so appropriated, and all money received from the school fund of the state, poll taxes, the sale of school property, the sale of bonds for school purposes, and from any other source whatever for school purposes, shall be held by the treasurer of the city as a special fund or funds for school purposes, and it shall be paid out by him on warrants drawn by the clerk of the board and countersigned by the president, or vice-president, when acting as president of the board of education, and by the clerk of the city, and not otherwise, and no warrant shall be drawn unless in pursuance of a resolution of the board of education entered upon its minutes.

1353. *Schools; control of.*—The board of education shall have full control of the public schools of the city or town. It shall have power to establish schools, to discontinue any school, to consolidate schools, to prescribe courses of study and books to be used, not in conflict with the general law in reference to text-books, to divide the city into school divisions as circumstances may require, to employ teachers and a superintendent of schools and necessary employes and to fix their sal-

aries and wages, to establish and maintain high schools and prescribe rules for the expulsion of pupils, to expel any pupil guilty of gross disobedience or willful misconduct, to dismiss any superintendent, teacher, or employe, when in its opinion the interests of the schools require it, and generally to have and exercise all rights, powers, and authority required for the management of a system of public schools. It shall be the duty of the board of education to examine, or cause to be examined, all persons, at times and places fixed by it, offering as candidates for teacher's places, and when found qualified to give them certificates of qualification gratuitously, to grant diplomas without charge to graduates of the high schools, to visit all schools as often as once a month, to establish and uniformly enforce proper rules and regulations, to inquire into the performance of their duties by the teachers and superintendent, and into the progress of the pupils, and to prepare and submit to the city council an annual report showing the operation of the schools for the past scholastic year, and suggesting their needs for the future.

1354. *Superintendent of schools.*—It shall be the duty of the board of education to elect a superintendent of schools, fix his term of office and salary, and prescribe his powers and duties. The superintendent shall be required to give bond for the faithful performance of his duties, which shall be payable to said city, in a sum to be fixed by the board, not less than three thousand dollars, with surety or sureties to be approved by the president of the board, the bond to be filed with the clerk of the city or town. The superintendent may be elected clerk of the board of education, and if so elected his bond shall stand as security for the faithful performance of his duties as clerk, as well as superintendent, however conditioned. It shall be the duty of the clerk of the board of education to keep full and correct detail account of all money received and expended. The superintendent shall attend to the taking of the school census, which shall be taken in the months of April of each odd year, and it shall be his duty to make complete and ac-

curate reports of the same to the superintendent of education of the state.

1355. *Board of education of towns having over one thousand and less than six thousand inhabitants.*—Towns having a population of more than one thousand and cities having a population of less than six thousand shall have a board of education to consist of five members, which shall be elected by the council at its first meeting in April, 1909, or as soon thereafter as may be practicable, and every two years thereafter. The members of said board shall be qualified electors and shall serve without compensation. As soon after the election as practicable, said board shall organize by electing one of their number president, and shall also elect one of their number secretary of said board. And said board shall have all the powers and be vested with all the authority in relation to public schools as boards of education in cities of six thousand or more population.

In towns of one thousand population or less the management and control of the public schools therein shall be vested in a board of education to consist of five members, who shall have all the powers and be vested with all the authority in relation to such public schools as boards of education in cities. Said board of education shall be elected by the qualified electors of the town at the first regular municipal election held under the provisions of this chapter and biennially thereafter.

1356. *School districts.*—Each incorporated city, or town, as a special school district, or embraced therein, shall receive its proportionate share of the public school revenue to be paid over by the state superintendent of education direct to the city superintendent of schools and by him paid over to the treasurer.

1357. *Municipalities exempt from school law.*—The provisions of this chapter relative to public school systems shall not apply to cities and towns in counties now having by law a combined city and county school

system operated under a single board of education, or where the members of the board hold office for life.

Where by any provision of law any certain or definite percentage of the revenue of any city or town from licensus or taxes, either or both, is required to be used for the maintenance of its public schools, then such provisions shall be unaffected by this chapter and shall be and remain in full force and effect.

1358. *Libraries.*—Cities and towns shall have the right to establish and maintain or aid in establishing and maintaining public libraries, either separately or in connection with the public schools.

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#### CRIMINAL PROVISIONS OF PUBLIC SCHOOL LAW.

6413. *Injuring or defacing public or private buildings, or fences thereof.*—Any person who willfully injures or defaces any church, or schoolhouse, or building belonging to the State, or to any county, city, town, or person, or writes or draws figures, letters, or characters on the walls thereof, or on the fences or inclosures thereof, must, on conviction, be fined not less than ten nor more than one hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than three months; and the fine goes to the injured party. It shall not be necessary to aver or prove the ownership of any church or schoolhouse in prosecutions under this section.

6769. *Disturbing people met for school purposes or holiday.*—Any person who willfully disturbs any school, or other assemblage of people, met for any lawful purpose, or for amusement or recreation on a holdiday for a school, must, on conviction, be fined not less than five nor more than fifty dollars.

6834. *Embezzlement by using school money for other than school purposes.*—Any person into whose hands,

or under whose control, any of the public school money may come, who uses or permits the use of the same, or any part thereof, except for purposes of the public schools, and in accordance with the law regulating the public schools, and providing for the disbursement of the public school money, is guilty of embezzlement, and, on conviction, must be punished as if he had stolen it.

*6897. Shooting, throwing missiles into, etc., dwelling and other houses.*—Any person who shoots a pistol or other firearm or slingshot, or who throws a stone or other missile at, into, in, through, or against a dwelling house, school house, church building, factory storehouse, courthouse or house or building used for manufacturing purposes, or any house or building used for the assemblage of people for business or pleasure, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than one thousand dollars, and may be sentenced to hard labor for the county for not longer than twelve months.

*7750. Stealing examination questions, penalty for.*—Any person who purloins, steals, buys, receives, sells, gives, or offers to buy, give, or sell any examination questions or copies thereof of any examination provided by law before the date of the examination for which they had been prepared shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars, and may also be sentenced to hard labor for the county for not less than six months.

*7751. Use of other than contract books in public schools.*—Any teacher who shall use or permit to be used in his or her school any text-book upon the branches for which text-books are adopted, where the commission has adopted a book upon the branch, other than the one so adopted, except supplementary books, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than ten dollars nor more than fifty dollars.

7752. *Charging more than contract price for school books.*—Any local agent, dealer, clerk, or other person handling or selling the books adopted as school textbooks, who shall demand or receive for any copy of any of the books so adopted more than the contract price, in cases where the purchase is for cash, shall be guilty of a misdemeanor, and, upon conviction, shall for each offense be punished by a fine of not less than fifty nor more than five hundred dollars.

7753. *Text-book provisions; violation of, penalty.*—Any person or teacher violating the provisions of article 18 of chapter 41 of this Code as to text-books, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten dollars nor more than fifty dollars.

7754. *Schoolhouse warrants or proceeds, wrongful application of; penalty.*—Any person who shall knowingly use or apply or authorize the use or application of the proceeds, or any part thereof, of any warrant delivered to him under article 31 of chapter 41 of this Code, for the purpose or objects other than as required by said articles, shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than two hundred dollars nor more than one thousand dollars, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

7755. *False or fraudulent enumeration of school children; penalty for.*—Any person appointed to make an enumeration of the children within school age of any public school district in this state as required by law, who shall knowingly make a false or fraudulent enumeration or report of the number of children within school age residing in such district, shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and shall also be sentenced to hard labor for the county for not less than six months nor more than twelve months.

## CHAPTER 184.

CHILD LABOR. 6428-6449.

6428. *Children under twelve years of age prohibited from working in factories, etc.*—No child under twelve years of age shall be employed or permitted to work in or be in or about any mill, factory, or manufacturing establishment in this state.

6429. *Children between twelve and sixteen regulated and required to attend school.*—One year after January 1, 1908, no child between the ages of twelve and sixteen years shall be employed or be permitted to work or detained in or about any mill, factory, or manufacturing establishment in this state, unless such child shall attend school for eight weeks in every year of employment, six weeks of which shall be consecutive.

6430. *Children under fourteen years limited to sixty hours per week.*—No child under the age of fourteen years shall be employed or detained in or be in or about any mill, factory, or manufacturing establishment within this state for more than sixty hours in any one week.

6431. *Children under sixteen not employed between 7 p. m. and 6 o'clock a. m.*—No child under sixteen years of age shall be employed or detained in, or be in or about any mill, factory, or manufacturing establishment within this state between the hours of seven o'clock p. m. and six o'clock a. m., standard time.

6432. *Children between sixteen and eighteen limited to eight hours per night.*—No child over sixteen and under eighteen years of age shall be so employed or detained between said hours for more than eight hours in any one night.

6433. *Children under eighteen not employed without affidavit of parent or guardian; contents of affidavit.*—It shall be unlawful for any person, firm, or corporation, to employ, or detain in, or permit to work in, or be in or

about any mill, factory, or manufacturing establishment any child under eighteen years of age, without first requiring said child to present on a blank furnished by the employer, the form of which shall be provided by the inspector, the affidavit of the parent or guardian or other person standing in parental relation to such child, stating the date and place of birth of said child.

*6434. Affidavit filed and recorded in probate office.*—Such affidavit shall be filed by such employer within ten days after the employment of such child, in the office of the judge of probate of said county, and shall be numbered and labeled with the name of the child, and a complete index thereof made and preserved as other records in said office. For the services so rendered the judge of probate shall receive from the county treasury ten cents for each such affidavit. A copy of said affidavit shall be forwarded, within ten days after the employment of such child, to the inspector at Montgomery, Alabama.

*6435. Violating or permitting child to violate child-labor law.*—Any person, firm, or corporation who violates any of the provisions of this chapter, or who knowingly permits any child to be employed or detained in, or be in or about his, their, or its mills, factory, or manufacturing establishments, contrary to the provisions of this chapter, shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars for each offense.

*6436. Violating law or refusing to obey order of inspector; penalty for first and second convictions.*—Any person, firm, or corporation, who violates any of the provisions of this chapter, or who employs any child, or knowingly permits any child to be employed, or to work in or about, or be detained in or be in or about any mill, factory, or manufacturing establishment contrary to law, or who fails or refuses to obey promptly every lawful order or direction given by the inspector under this

law, must on conviction be fined not less than fifty dollars nor more than one hundred dollars, and upon a second conviction, for any violation of this law, must be fined not less than one hundred nor more than five hundred dollars, and if a natural person be sentenced to hard labor for not more than six months.

6437. *False affidavit; perjury.*—Any person, who knowingly makes any false affidavit, when an affidavit is required under this chapter, is guilty of perjury.

6438. *Inspector of mills, factories, etc., duties of.*—The inspector of jails and almshouses is charged with the duty of inspecting all mills, factories, and manufacturing establishments wherein women and children work, and he must inspect every such mill, factory, or manufacturing establishment at least four times a year if practicable, without notice of his purpose to do so. He shall thoroughly inspect such manufacturing establishments, and ascertain their sanitary condition, and whether a good supply of fresh drinking water and fresh air and suitable water closets for the women and girls are provided, separate and apart from those for the use of boys and men, and particularly the ages and conditions of the children employed, at work in, or detained therein; and shall carefully examine all affidavits filed in the probate office under this law and in connection therewith, the children named therein, and all other matters concerning the operation and condition of the manufacturing establishments in which children work or are detained, or make written orders requiring correction of any defects in or about the mill or manufacturing establishment.

6439. *Inspector reports to governor.*—The inspector shall make written report to the governor of every examination of every manufacturing establishment inspected by him, and note every refusal or failure to comply with or observe the law, in any respect, which reports must be published annually.

6440. *Inspector removes child from mill, etc.*—It shall be the duty of the inspector to remove from any mill, factory, or manufacturing establishment, any child found working or detained therein contrary to law, and to remove therefrom any child who is afflicted with any infectious, contagious, or communicable disease. The judgment of the inspector as to the removal of any child shall be final and conclusive.

6441. *Prosecutions instituted against owners of mills, factories, etc.*—It shall be the duty of the inspector to institute prosecutions against the owners, operators, managers, and superintendents of any such mill, factory, or manufacturing establishment for every violation of law that they may discover, and to furnish to the solicitor of the circuit or county the names and addresses of all necessary witnesses.

6442. *Inspector shall have access to mills, factories, etc.*—The inspector shall have free access at any time, to any mill, factory, or manufacturing establishment wherein women and children work, or are detained, and no person shall refuse to allow the inspector to have free access to a manufacturing establishment and every part thereof.

6443. *Hindering, obstructing, or misleading inspector.*—No person shall hinder or obstruct the inspector, in inspection or make any false or misleading statement to the inspector about the establishment, its operation, or condition, or about any person working or detained therein.

6444. *Copy of law posted at office of mill, factory, etc.*—All persons must have a plainly printed copy of the child-labor law posted up in the office and in every room in which any person works in the mill, factory, or manufacturing establishment.

6445. *Penalty for violating three preceding sections.*—Any person violating the three preceding sections,

must, on conviction, be fined not less than one hundred nor more than five hundred dollars, and on subsequent conviction be fined not less than five hundred dollars, and may be sentenced to hard labor for not more than one year.

6446. *Disobeying orders as to removal of children.*—Any owner or manager of a mill, factory, or manufacturing establishment who disobeys any order of the inspector, removing a child from the mill, factory, or manufacturing establishment; or who permits any child who has been removed by the inspector to return to work therein, or to be in or about the mill, factory, or manufacturing establishment without the written permission of the inspector, must, on conviction, be fined not less than fifty dollars, nor more than one hundred dollars.

6447. *Clerk of inspector; salary of.*—The inspector of jails and almshouses is authorized to employ a competent clerk, with the approval of the governor, who shall be authorized to perform the same duties as by law the inspector is authorized to perform, and shall have and exercise the same powers under the direction of the inspector as the inspector has by law. The annual salary of the clerk of the inspector shall be eighteen hundred dollars, payable monthly out of the State treasury as clerks in the other departments are paid.

6448. *Limitation of law to certain manufactures.*—This chapter shall apply only to manufacturing establishments engaged in manufacturing or working in cotton, wool, clothing, tobacco, printing and binding, glass or other kind of work that is injurious to health when carried on indoors.

6449. *Traveling expenses of inspector and clerk; reimbursement of.*—The inspector and the clerk of the inspector, when traveling in the performance of their duties hereunder, shall be reimbursed their actual traveling expenses when approved by the governor, to be paid on the warrant of the State auditor.

## EDUCATION ARTICLE OF THE CONSTITUTION.

## ARTICLE XIV.

## EDUCATION.

256. The Legislature shall establish, organize and maintain a liberal system of public schools throughout the State for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein, and shall be so apportioned to the schools in the districts or townships in the county as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. Separate schools shall be provided for white and colored children, and no child of either race shall be permitted to attend a school of the other race.

257. The principal of all funds arising from the sale or other disposition of lands or other property, which has been or may hereafter be granted or entrusted to this State or given by the United States for educational purposes shall be preserved inviolate and undiminished and the income arising therefrom shall be faithfully applied to the specific object of the original grants or appropriations.

258. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons who die without leaving a will or heir shall be faithfully applied to the maintenance of the public schools.

259. All poll taxes collected in this State shall be applied to the support of the public schools in the respective counties where collected.

260. The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States government, and the funds enumerated in sections 257 and 258 of this Constitution, together with a special annual tax of thirty cents on each one hundred dollars of taxable property in this State,

which the legislature shall levy, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the Legislature to increase the public school fund from time to time, as the necessity therefor and the condition of the treasury and the resources of the State may justify; provided, that nothing herein contained shall be so construed as to authorize the Legislature to levy in any one year a greater rate of State taxation for all purposes, including schools, than sixty-five cents on each one hundred dollars worth of taxable property; and provided further, that nothing herein contained shall prevent the Legislature from first providing for the payment of the bonded indebtedness of the State and interest thereon out of all the revenues of the State.

261. Not more than four per cent. of all moneys raised, or which may hereafter be appropriated for the support of public schools, shall be used or expended otherwise than for the payment of teachers employed in such schools; provided, that the Legislature may, by a vote of two-thirds of each House, suspend the operation of this section.

262. The supervision of the public schools shall be vested in a Superintendent of Education, whose powers, duties and compensation shall be fixed by law.

263. No money raised for the support of the public schools, shall be appropriated to or used for the support of any sectarian or denominational school.

264. The State University shall be under the management and control of a board of trustees which shall consist of two members from the Congressional district in which the University is located, one from each of the other Congressional districts in the State, the Superintendent of Education and the Governor who shall be ex-officio president of the board. The members of the Board of Trustees as now constituted shall hold office until their respective terms expire under existing law, and until their successors shall be elected and confirmed as hereinafter required. Successors to those trustees whose terms expire in nineteen hundred and two shall hold office until nineteen hundred and seven; successors to those trustees whose terms expire in nineteen hun-

died and four shall hold office until nineteen hundred and eleven; successors to those trustees whose terms expire in nineteen hundred and six shall hold office until nineteen hundred and fifteen; and thereafter their successors shall hold office for a term of twelve years. When the term of any member of such board shall expire, the remaining members of the board shall by secret ballot elect his successor; provided, that any trustee so elected shall hold office from the date of his election until his confirmation or rejection by the Senate, and, if confirmed, until the expiration of the term for which he was elected, and until his successor is elected. At every meeting of the Legislature the Superintendent of Education shall certify to the Senate the names of all who have been so elected since the last session of the Legislature, and the Senate shall confirm or reject them, as it shall determine is for the best interest of the University. If it reject the names of any members, it shall thereupon elect trustees in the stead of those rejected. In case of a vacancy on said board by death or resignation of a member, or from any cause other than the expiration of his term of office, the board shall elect his successor who shall hold office until the next session of the Legislature. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

265. After the ratification of this Constitution there shall be paid out of the treasury of this State, at the time and in the manner provided by law, the sum of not less than thirty-six thousand dollars per annum as interest on the funds of the University of Alabama, heretofore covered into the treasury, for the maintenance and support of said institution; provided, that the Legislature shall have the power at any time they deem proper for the best interest of said University to abolish the military system at said institution, or reduce the said system to a department of instruction, and that such action on the part of the Legislature shall not cause any diminution of the amount of the annual interest payable out of the treasury for the support and maintenance of said University.

266. The Alabama Polytechnic Institute, formerly called the Agricultural and Mechanical College, shall be under the management and control of a board of trustees which shall consist of two members from the Congressional district in which the institute is located, and one from each of the other Congressional districts in the State, the State Superintendent of Education, and the Governor, who shall be ex-officio president of the board. The trustees shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall hold office for a term of twelve years, and until their successors shall be appointed and qualified. The board shall be divided into three classes, as nearly equal as may be, so that one-third may be chosen quadrennially. Vacancies occurring in the office of trustees from death or resignation, and the vacancies regularly occurring in the year nineteen hundred and five, shall be filled by the Governor, and such appointee shall hold office until the next meeting of the Legislature. Successors to those trustees whose terms expire in nineteen hundred and three and shall hold office until nineteen hundred and eleven; successors to those whose terms of office expire in nineteen hundred and five shall hold office until nineteen hundred and fifteen; and successors to those whose terms of office expire in nineteen hundred and seven shall hold office until nineteen hundred and nineteen. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

267. The Legislature shall not have power to change the location of the State University, or the Alabama Polytechnic Institute, or the Alabama school for the Deaf and Blind, or the Alabama Girls' Industrial school, as now established by law, except upon a vote of two-thirds of the Legislature taken by yeas and nays and entered upon the Journals.

268. The Legislature shall provide for taking a school census by townships and districts throughout the State not oftener than once in two years, and shall provide for the punishment of all persons or officers making false or fraudulent enumerations and returns; pro-

vided, the State Superintendent of Education may order and supervise the taking of a new census in any township, district or county, whenever he may have reasonable cause to believe that false or fraudulent returns have been made.

269. The several counties in this State shall have power to levy and collect a special tax not exceeding ten cents on each one hundred dollars of taxable property in such counties, for the support of public schools; provided, that the rate of such tax, the time it is to continue, and the purpose thereof, shall have been first submitted to a vote of the qualified electors of the county, and voted for by three-fifths of those voting at such election; but the rate of such special tax shall not increase the rate of taxation, State and county combined, in any one year, to more than one dollar and twenty-five cents on each one hundred dollars of taxable property; excluding however, all special county taxes for public buildings, roads, bridges and the payment of debts existing at the ratification of the Constitution of eighteen hundred and seventy-five. The funds arising from such special school tax shall be so apportioned and paid through the proper school officials to the several schools in the townships and districts in the county that the school terms of the respective schools shall be extended by such supplement as nearly the same length of time as practicable; provided, that this section shall not apply to the cities of Decatur, New Decatur and Cullman.

270. The provisions of this article and of any act of the Legislature passed in pursuance thereof to establish, organize and maintain a system of public schools throughout the State, shall apply to Mobile county only so far as to authorize and require the authorities designated by law to draw the portions of the funds to which said county shall be entitled for school purposes and to make reports to the Superintendent of Education as may be prescribed by law; and all special incomes and powers of taxation as now authorized by law for the benefit of public schools in said county shall remain undisturbed until otherwise provided by the Legislature; provided, that separate schools for each race shall always be maintained by said school authorities.

## IMPORTANT OPINIONS OF ATTORNEYS-GENERAL.

January 23, 1904.

### TOWNSHIP TRUSTEES; EXEMPT FROM THE PAYMENT OF POLL TAX; RIGHT TO VOTE.

HON. ISAAC W. HILL,

*Superintendent of Education.*

Dear Sir:

I acknowledge receipt of a letter from Mr. L. M. Stevenson, Superintendent of Education of Randolph county, addressed to you, and asking whether or not Township Trustees are required to pay a poll tax in order to be qualified to vote. You request me to give you my view of this question.

The Constitution declares that "to entitle a person to vote at any election by the people, he shall have \* \* \* paid on or before the first day of February next preceding the date of the election at which he offers to vote, all poll taxes due from him for the year 1901, and for each subsequent year."—Constitution, Section 178. And that "the poll tax mentioned in this article shall be one dollar and a half upon each male inhabitant of the State, over the age of twenty-one years, and under the age of forty-five years, who would not now be exempt by law."—Constitution, Section 194.

So it will be seen that the payment of the poll tax is necessary to qualify a person to vote, except those persons exempt from the payment of poll tax on the date of the ratification of the Constitution, November 28, 1901. On that date, and for many years prior thereto, the statute was in force which exempts Township Trustees from the payment of poll tax, so long as they shall continue in office and perform the duties thereof. Code, Section 3575. Township Trustees being exempt

from the payment of poll tax at the date of the ratification of the Constitution, and the Constitution declaring that the poll tax mentioned therein shall be \$1.50 upon each male inhabitant not exempt by law, I am of the opinion that Township Trustees are not required to pay the poll tax in order to qualify to vote.

Very respectfully,

MASSEY WILSON,  
Attorney General.

August 30, 1904.

### THE APPORTIONMENT OF PUBLIC SCHOOL FUNDS.

HON. ISAAC W. HILL,

*Superintendent of Education,*

*Montgomery, Ala.*

Dear Sir:

I have investigated the question of the method of apportionment of the Public School Funds, and respectfully submit my conclusions thereon.

The Constitution of 1875 contains the following section: "The general assembly shall establish, organize and maintain a system of public schools throughout the State, for the equal benefit of the children thereof between the ages of seven and twenty-one years."—Constitution 1875, Article XIII, Section 1. In enumerating the duties of the Superintendent of Education, he was required to apportion the public school funds in the following way: "He shall annually apportion the public school fund to the various townships and school districts, according to the entire number of children of school age, and shall see to the proper disbursement of the same."—Code, Section 3546, sub-division 5. It will be observed that under the provisions above cited, the Superintendent of Education apportioned the public school fund to the various townships and districts, without reference to the counties in which such townships

or districts were located. For purposes of apportionment the township or district was the governmental sub-division or entity to be dealt with.

There is a material difference in the corresponding section of the Constitution of 1901 upon this subject, from that contained in the Constitution of 1875. The present Constitution declares: "The Legislature shall establish, organize and maintain a liberal system of public schools throughout the State, for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of children of school age therein, and shall be so apportioned to the schools in the districts or townships in the county, as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships."—Constitution, Section 256. It will be noticed that the Constitution does not, in express words, declare who shall apportion the fund to the several counties. It is clear, however, that the intention is for the Superintendent of Education to make such apportionment. He made the apportionment to the townships or districts under the law as it existed at the time the Constitution became effective, and the supervision of the public schools is vested in him by both constitutional and statutory provisions. He should apportion the school fund to the several counties in accordance with the section of the Constitution above quoted.

After the fund has been apportioned to the several counties, the Constitution declares it shall be so apportioned to the schools in the districts or townships in the several counties, as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. The Constitution does not undertake to prescribe rules to accomplish this end. It declares the principle upon which apportionment to the various schools in the county shall be based but provides no machinery for carrying such principle into practical effect. The act "to provide for the redistricting of the public schools of the State, and for the management and control of the same," (General Acts 1903, page 289, Sections 10,

11 and 15), creates a county board of education in each of the several counties of the State, and defines the duties of such board. The act gives the county board of education entire control of the public schools, except when otherwise provided by law, gives it power to contract with teachers and make disbursements of the public fund subject to its approval. It does not in express terms give to such county board the power to apportion the public school fund to the several schools of the county, but I think the power to do this is included within and flows from the very broad and comprehensive terms used in the statute that defines its powers and duties. It will become the duty of the several county boards to apportion the public school fund to the schools in the districts in the various counties, in such a way as to provide, as nearly as practicable, school terms of equal duration in such school districts, after the Superintendent of Education shall have apportioned the fund to the various counties.

Yours respectfully,  
MASSEY WILSON,  
Attorney General.

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September 7th, 1904.

A COPY BOOK IS A TEXT BOOK, AND THAT  
ADOPTED MUST BE USED IN THE PUB-  
LIC SCHOOLS WHEN WRITING  
IS TAUGHT.

HON. ISAAC W. HILL,  
*Superintendent of Education.*

Dear Sir:

Your request for an opinion as to the proper construction, in the particular hereinafter indicated, of the recent act of the Legislature, providing for the creation of a Text Book Commission, and to procure for use in the public free schools in this State, a uniform series of text books, has been received.

The facts upon which information is desired are as follows:

Under this act the Text Book Commission selected and adopted for use in the public schools, a copy book published by Eaton & Company, and the contract was awarded to that firm to furnish these copy books for use in the public schools of this State, for a period of five years.

The Text Book Commission, in construing this act has held that it was permissible to teach writing in the public schools of Alabama, without copy books, and in some of the public schools, writing has been taught and is being taught without using the copy books, selected and adopted by the Text Book Commission. The question for consideration is, can it be left to the discretion of school boards, or teachers, to decline to use any text book selected and adopted by the Text Book Commission, and teach such branch of study by some other method, and without the use of such text books so selected and adopted.

It is declared in Sections 1, 16 and 17 of the act: "that the Governor, State Superintendent of Education, and three eminent teachers of the State \* \* \* shall be and are hereby constituted the School Book Commission of the State of Alabama, whose duty it is to select and adopt a uniform series or system of text books *for use* in the public schools of this State. Said commission is hereby authorized, empowered and *directed* to select and adopt a uniform system or series of text books for use in the public schools in this State, as above indicated, and when so selected and adopted, the said text books shall be *used* for a period of five years in all the public schools of this State, and it shall not be lawful for any officer, director or teacher, to use any other books upon the same branches other than those adopted by said State Text Book Commission. Said uniform series shall include the following branches of study, to wit:

"Orthography, reading, *writing*, arithmetic, geography," etc. "That any person or teacher violating the provisions of this act, shall become guilty of a misde-

meanor, and upon conviction, be punished by a fine of not less than ten dollars nor more than fifty dollars."

"That any teacher who shall use or permit to be used in his or her school, any text book upon the branches embraced in this act, where the Commission has adopted a book on that branch other than the one so adopted, shall be guilty of a misdemeanor, and upon conviction, punished as provided for in Section 16 of this act."

It will be observed that Section 1 of the act specifically provides—

First—For the appointment of a Text Book Commission.

Second—It is made the duty of said Text Book Commission to 'select and adopt a uniform series or system of text books *for use* in the public schools of Alabama.'

Third—The State Commission is authorized, empowered and *directed* to select and adopt a uniform system of series of text books *for use* in the public schools of this State.

Fourth—When said text books are so selected and adopted they "*shall be used* for a period or five years in all of the public schools of this State."

Fifth—It is further provided that it shall not be lawful for any school officer, director or teacher to use any other books upon the same branches other than those adopted by the State Text Book Commission.

Sixth—Said uniform series shall include the following branches of study to-wit: "Orthography, reading, writing, arithmetic, geography," etc.

It is clearly the legislative intent that the system of teaching these several branches shall be uniform in all the public schools in this State, and to that end, it is made mandatory that the text books selected and adopted by the Text Book Commission, shall be used for a period of five years, in the public schools, to the exclusion of all other books upon the same branches.

It is also clearly the legislative intent that the books adopted should be used in said public schools in order to secure said text books at a cheaper price than heretofore prevailed, and the mandatory requirement that these books, when selected and adopted, shall be used

for a period of five years, was supposed to be an inducement to the various publishers to bid for the books at a lower cost than they could be bought at retail. If it were held that a teacher could refuse to teach arithmetic, or for that matter, any other text book selected and adopted, and teach that particular branch of study by a process of his own, independently of any book, this construction would emasculate the law, and leave it to the discretion of each school board, or teacher, to determine whether or not he could teach arithmetic "out of his head," by a higher or better process than by the books selected and adopted by the Text Book Commission, and thereby destroy the uniformity in teaching this branch. This intent is made still more specific and clear by Section 16 of the act, which provides that any person or teacher violating the provisions of this act, shall be guilty of a misdemeanor, and as a further guarantee that the text books adopted and selected by the Commission, shall be used in the public schools of this State, Section 17 of the act makes it a misdemeanor for any teacher to use or permit to be used in his or her school, any text book upon the branches embraced in this act, other than those adopted.

The legislature has unlimited and exclusive power to select the text books to be used in the public schools, and to compel the use of the books selected. In the exercise of this power by the enactment before referred to, our court declares, in the case of *Dickinson v. Cunningham* (in M. S.): "Two things are very clear to our minds; one, that the legislature meant to provide an exclusive privilege in order to secure books at the best prices; the other, the legislature meant to prevent the possibility of any break in the uniformity of the system framed by the statute."

The question arises, therefore, as to whether or not the copy book, selected and adopted by the Text Book Commission for the uniform system or series of writing to be taught in the public schools of this State, is a text book. Of this there is no doubt. Webster defines a text book to be any manual of instruction; an educational treatise; a school book. The Century Dictionary defines

it to be a book used by students, as a standard work for a particular branch of study; a manual of instruction. It is also there defined to be a book containing a "Text or Texts," and one of the definitions there given of the text, is "formal handwriting." The legal definition of a book is much more comprehensive, and greater than the popular idea of a book. A single sheet of music has been held to be a book within the purview of the law.—(A. & E. Enc. of Law, 2d ed., Vol. 4, pp. 703-704.)

The Supreme Court of Illinois in an able opinion (The People ex rel. v. Board of Education, 175 Ill. 9), held that a copy book was a text book within the meaning of the law of that State, which is very similar to the law of Alabama upon this subject. It is my opinion, therefore, that the copy book of Eaton & Co., selected and adopted by the Text Book Commission, must be used and taught, in all the public schools of this State, wherever writing is taught, and that it does not lie in the discretion of any school board or teacher to provide for a different method of teaching writing, or to decline the use of these copy books in teaching that branch. The contrary view would make possible a "break in the uniformity of the system," which our Supreme Court says the legislature meant to prevent.

Respectfully yours,  
MASSEY WILSON,  
Attorney General.

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September 24, 1904.

HON. ISAAC W. HILL,  
*Superintendent of Education.*

Dear Sir:

I have your favor of the 22d inst., requesting my opinion of the questions below quoted:

"First—Can any of the books that have been adopted by the State Text Book Commission for the use of the public schools of the State, be purchased from any person or dealer other than the publisher having the contract with the State to furnish such books, or his duly

constituted and appointed depositories, or regularly and duly constituted agents throughout the counties of Alabama, and be used by a pupil or teacher in the public schools of Alabama?

"Second—If any of the books that have been adopted by the State Text Book Commission for use in the public schools of the State, having printed or stamped upon them the statements of the price and that they are supplied under the contract with the State, are sold by a dealer other than a duly appointed agent, or through channels other than those provided by law and under contract, and as a matter of fact they are not furnished by the publisher or supplied to said dealer or person offering them for sale through the agencies adopted, is the dealer or said person so selling such book, guilty of a violation of the statute, in such sort as to make him subject to conviction for a misdemeanor under said statute?"

(1.) The Supreme Court of Alabama has answered the first question in the negative. It is decided in the case of *Dickinson v. Cunningham* (in MS) that if a book adopted by the State Text Book Commission was purchased from a person or dealer other than the contractor and was not supplied through a depository or agency, such book could not be taught in the public schools. It follows that it would be a misdemeanor to use a book so obtained in the public schools of this State.

(2.) Under the Text Book Statute, and the contracts made with publishers pursuant to it, the successful bidders for the privilege of supplying books for the public schools have the exclusive right to supply such books for that purpose.—(*Dickinson v. Cunningham, supra*; *Clark v. Haworth*, 7 L. R. A., 240). While this exclusive privilege may result in benefit to the contractor, it is supposed to be of corresponding benefit to the public by enabling the patrons of the public schools to get better and cheaper books. The contractors are under bond in a large penalty to execute the contracts on their part. Books furnished under these contracts are required to come up to the standard of quality and excellence of the samples furnished with the bids and preserved by the

Secretary of State. To make it easier to fix liability on the contractor for a violation of the statute, or of their contracts, and a safe-guard against the introduction into the schools of books other than those adopted, it is required that such contractors shall cause to be printed upon every book furnished under their contracts the contract price, the exchange price, and the fact that the price is fixed by State contract, and a request that deviations therefrom shall be reported to the school authorities. If a dealer who is not a contractor, or a designated depository, or a duly constituted agency, as provided for in the statute, should procure books from some source other than the regular channels provided in the law, and himself cause to be printed upon such books the matter required to be printed upon such books sold under contract, and sell such books as if the same were sold pursuant to the text book law, I think such conduct would be a violation of the provisions of this act. Section 16 of the act declares that any person violating its provisions shall be guilty of a misdemeanor. I think, however, that books which have been sold or supplied by a contractor with the State, or through his depository or agency, and which come up to the tests of the text book law, may be sold within the State by any person or dealer who may have become the owner of such books, without being subject to criminal liability. Neither do I mean to say that the mere sale of the adopted books by any dealer would be a violation of the law, although such books, unless supplied under the contracts with the State, could not be used in the public schools. It is the printing upon adopted books by persons who are not contractors, the matter required to be printed upon them by the contractors, and the selling of such books under and as in compliance with the statute by persons who are not contractors (privileges given exclusively to the contractors) which I think a violation of the law.

Very respectfully,

MASSEY WILSON,  
Attorney General.

September 28, 1904.

APPORTIONMENT OF SPECIAL SCHOOL TAX.

HON. ISAAC W. HILL,  
*Superintendent of Education.*

Dear Sir:

I am of the opinion that funds raised by the levy of a special tax for the support of public schools under the act approved October 1, 1903, should be apportioned in substantially the same way as the general school fund is apportioned; that is, to the districts in the county which are not governed by the general school law in the proportion which the school population of such districts bears to the entire school population of the county, and that the remainder of the funds should be apportioned to the several districts in the county which are governed by the general law in the same proportion that the general fund has been apportioned by the county board of education to such districts.

Very respectfully,  
MASSEY WILSON,  
Attorney General.

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June 26, 1905.

TAX OFFICER'S COMMISSIONS FOR COLLECT-SCHOOL TAX.

HON. ISAAC W. HILL,  
*Superintendent of Education.*

Dear Sir:

I beg to acknowledge letter from Mr. John C. Williams, Superintendent of Education for Talladega county, to you concerning commissions to be allowed the assessor and collector for assessing and collecting the special school tax in Talladega county.

The question should have been addressed to the State Auditor. The tax officers are required to make settle-

ments through his office, and he will have to determine what commissions are allowable. It is my idea, however, that in estimating the assessor's commissions the aggregate of this and all other assessments should be taken, and that the commissions should not be allowed on the school tax separately, and that the collector is entitled to two per cent for collecting the special school tax. General Acts, 1903, p. 352; Code, Sections 3925 and 2997.

Yours truly,  
MASSEY WILSON,  
Attorney General.

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February 7th, 1907.

HON. HARRY C. GUNNELS,  
*Superintendent of Education,*  
Capitol.

Dear Sir:

In reply to your favor of the 7th, inst., I have to say that public school money in the hands of a County Superintendent, for disbursement to teachers, is not subject to garnishment at the suit of a creditor of a teacher to whom such money is due or to become due. Pruitt vs. Armstrong, 56 Ala. 306.

Respectfully submitted,  
ALEX. M. GARBER,  
Attorney General.

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April 20th, 1907.

HON. HARRY C. GUNNELS,  
*Superintendent of Education,*  
Capitol.

Dear Sir:

Many pressing matters and an unusual volume of work in this office have rendered the delay unavoidable in responding to your request, contained in your letter

of March 26th, to advise you concerning certain provisions of the "Rural School House Act," approved March 2nd, 1907. I proceed herewith to render an opinion upon each inquiry:

1st. The title of this Act is as follows: "To appropriate annually \$67,000.00 or so much thereof as is necessary to aid rural school districts in this State to erect or to repair public school houses." Its purpose is clearly expressed in the above title and its character is distinctly remedial. There is nothing in the body of the Act as to when it shall become operative. It cannot be contended that in the absence of a specific direction on this point there existed any legislative intent to postpone the operation of this Act to a future date. It is well settled that unless a different time is specified, statutes take effect and become operative from the day of the approval by the Governor. *Phoenix Carpet Company v. State*, 118 Ala. 143; *Taylor v. Hand*, 31 Ala. 383; *Bank of Mobile v. Murphy*, 8 Ala. 119. Therefore, it is manifest that this Act became effective on March 2nd, 1907, the date of its approval by the Governor, and I so advise you.

2nd. It is clearly the purpose of this Act to render aid only to *rural* school districts in the erection and repairing of public school houses and the provisions of Section 2 expressly exclude any school district a part of which lies in an incorporated city, town or village. The word "incorporated" must be held to qualify and describe each of the three words "city," "town" and "village."

3rd. Whenever the erection of a rural school building has been begun and has not been completed before the passage of this Act, I think such school house should receive the benefits of this Act and you would be authorized to so hold, provided the County Board of Education, upon application by the district trustees to the County Superintendent of Education and its submission to said Board, approves such application for aid, after having ascertained that all the conditions of Section 2 of said Act have been complied with; and if the plans of said

building, under course of construction, are endorsed by you.

4th. The following provision is found in the last lines of Section 3 of this Act: "No money shall be appropriated for the erection of a *new* school building on a plat of ground of less dimensions than two acres." The meaning of the language employed here is too obvious to admit of any doubt. The restriction upon the erection of a new school building on a plat of less than two acres is plain, and it is equally apparent that this restriction does not apply to the school houses already erected on a plat of less than two acres. Repairs on such a school lot, of less than two acres, therefore, may receive the aid of the funds appropriated under this Act.

5th. Construing this Act as a whole, it is my opinion that it appropriates \$67,000.00 annually for the purposes named in the Act. From Section 1 it would appear that \$67,000.00 or only so much thereof as is necessary is appropriated, but when construed in connection with the following provision in Section 5: "Provided further that if at the end of any year the *whole appropriation* for that year has not been exhausted, the State Auditor and the State Treasurer shall carry the unexpended balance forward and this balance shall be available in addition to the regular appropriation for the current year," it is clear that it was the manifest intention of the Legislature to appropriate and set aside \$67,000.00 each year to aid rural school districts and such evident intention of the Legislature must control. Brooks vs. School Commissioners, 31 Ala. 227; Sale vs. State, 68 Ala. 530; 26 Am. & Eng. Ency. of Law, (2d ed.) p. 66. Lehman Durr & Co. vs. Robinson, 59 Ala. 219.

You will observe that Section 1 provides that not more than \$1,000.00 of the annual appropriation shall be used in any one county in a separate fiscal year, but this provision cannot be held to apply to the unexpended balance mentioned in Section 5, which is made available in addition to the regular appropriation for the current year.

6th. Where this appropriation is used for merely repairing a rural school house, the Act does not require the plans of such school house to be endorsed by the State Superintendent of Education.

7th. The deed provided for in Section 4 of this Act should be made to "The State of Alabama for the benefit of \_\_\_\_\_ district of \_\_\_\_\_ county," and should convey a fee simple title. Therefore, I advise you to instruct your County Superintendents of Education to accept only deeds which pass an absolute and unconditional title to the State of Alabama. I advise also that you require these deeds to be sent to your office for inspection before requesting the State Auditor to draw his warrants as provided in the Act. They should also be filed in your office permanently for safe keeping.

I remain,

Yours very truly,

ALEX. M. GARBER,

Attorney General.

May 16th, 1907.

HON. HARRY C. GUNNELS,  
*Superintendent of Education,*  
*Capitol.*

Dear Sir:

Some time ago you submitted to me by letter a question involving this inquiry:

"Is a citizen, who is not a qualified elector in Russell County, State of Alabama, eligible to hold an elective office in said county, to-wit, the office of County Superintendent of Education?"

In reply I beg to submit the following:

Neither the Constitution nor the statutes of Alabama prescribe the qualifications required of a person to render him competent to hold this office. Section 3550 of the Code of 1896 reads as follows: "Unless by special act it is otherwise provided, a County Superintendent for each County is elected at each general election as provided in this Code." See also an act "To provide for

the election of County Superintendents of Education," approved Feb. 13th, 1889, p. 396 of the acts of 1888-89.

Upon investigation I find that it has been held in several States in cases of this character, that none but qualified electors can hold an elective office unless otherwise specially provided. The leading Alabama case on this subject is that of *Scott v. Strobach*, 49 Ala. p. 477. Justice Brickell, speaking for the Court in this case, asserts the following principle: "It would be at war with the spirit and theory of our institutions, to recognize as eligible to any public office one who is not a qualified voter. The right of suffrage and the capacity to hold office, unless otherwise expressly declared, must co-exist."

In the case of the State of Iowa v. Geo. Van Beek, 19 L. R. A. 622, the Supreme Court of Iowa on appeal in an action brought to determine the right to the office of sheriff delivered the following: "Our first inquiry is whether an alien can hold the office of sheriff under the laws of Iowa. There is no provision in our Constitution or statutes upon that subject, yet it is certainly a fundamental principle of our Government that none but qualified electors can hold an elective office unless otherwise specially provided \* \* \*. We are of the opinion that appellee Van Beek was ineligible to hold the office of sheriff prior to his naturalization."

A like principle is laid down in the case of the State v. Smith, 14 Wis. 497.

In the later case of the State v. Murray, 28 Wis. 96, the Supreme Court of that State in referring again to this question, through Justice Lyons, who delivers the opinion of the Court, says:

"There is no constitutional or statutory provision, and but one judicial decision in this State, which affects this question. In the State ex rel. Off vs. Smith, 14 Wis. 497, this Court decided that a person cannot lawfully hold such an office unless he is a qualified elector of the State. The grounds of that decision are stated in the opinion by Dixon, C. J., to be, that as to all independent popular governments "it is an acknowledged principle, which lies at the very foundation, and the enforcement of which

needs neither the aid of statutory or constitutional enactments or restriction, that the government is instituted by the citizens for their liberty and protection, and that it is to be administered, and its powers and functions exercised by them and through their agency." In that case the defendant was an alien, and had entered upon the discharge of the duties of the office of sheriff, to which he has been elected, without having become an elector by declaring his intention to become a citizen; indeed he had not done so when the action was commenced. Under this state of facts this Court held that he could not lawfully hold the office, but did not decide, either expressly or by necessary implication, that he could not have held it had the disqualification been removed intermediate the election and the commencement of the term. It is true that it is said in the opinion that the defendant was ineligible; but it is not said that he was ineligible to be elected to such office, and the obvious meaning is that he was ineligible to hold the office. The term "ineligible" means as well disqualification to hold an office, as disqualification to be elected to an office."

The same doctrine is reaffirmed and adhered to in a still later Wis. Case. Justice Lyons delivering the opinion of the Court in the case of the State v. Trumpf, 50 Wis. p. 103, holds as follows:

"Only two cases have been adjudicated by this Court which have any direct bearing upon the questions to be determined on this appeal. These are State ex rel. Off. v. Smith, 14 Wis. 497, and State ex rel. Schuet v. Murray, 28 Wis. 96. In the first of these cases it was held to be fundamental principle of our government that a person not an elector of the State is ineligible to hold a public office therein, although our constitution and statutes do not expressly so ordain. In the latter case it was held that, in the absence of any constitutional or statutory provision on the subject, such ineligibility goes only to the holding of the office, and hence that, if an alien who is not an elector receives a plurality of votes for an office, he may lawfully hold and exercise the same, if, by naturalization or declaration, his dis-

ability is removed before the commencement of the term of office to which he has been elected."

In a treatise on the law of Public Officers, Mechem lays down the following general rule:

"Where no limitations are prescribed, however, the right to hold a public office under our political system is an implied attribute of citizenship, and is presumed to be co-extensive with that of voting at an election held for the purpose of choosing an incumbent for that office; those and those only who are competent to select the officer being deemed competent also to hold the office."

Under the influence of the authorities cited above, I can reach no other conclusion than that the right to hold a public office which is elective, should be limited to those citizens who are qualified electors of the State or County over which the jurisdiction of such office extends. The Courts have evidently been governed to some extent by considerations of public policy (and I think very properly so) in deciding cases of this character and the doctrine that the right of suffrage and the capacity to hold office must co-exist, appeals to me as a sound and conservative principle of law. Therefore, it is my opinion that a citizen who is *not a qualified elector of Russell County* is *ineligible* to fill an elective office of said County.

I remain,

Very respectfully,  
ALEX. M. GARBER,  
Attorney General.

June 20th, 1907.

HON. HARRY C. GUNNELS,  
*Superintendent of Education,*  
*Capitol.*

Dear Sir:

I have your favor of the 10th instant requesting me to advise you whether under the Act of March 2nd, 1907, (Pamphlet Acts 1907, 174) you should accept a deed for school house purposes to *surface rights* only.

Section 3 of this Act provides that "No money shall be appropriated for the erection of a new school building on a plat of ground of less dimensions than two acres." Section 4 imposes certain duties on the County Superintendent of Education with reference to the collection of the fund with which the school house is erected or repaired and provides that "Whenever it shall be shown to the satisfaction of the County Superintendent of Education \* \* \* that a deed has been properly executed conveying to the State of Alabama for the benefit of said district the *lot* or *parcel* of *land* on which said public school house is being erected or repaired, and after such deed is delivered to and accepted by him," the money named shall be used as therein directed. The Act does not in terms require the lot or parcel of land to be conveyed in fee simple. The following quotation is contained in 18 A. & E. Enc. of Law, Sec. Ed. 140; "In law, 'land' signifies any ground forming part of the earth's surface which can be held as individual property, whether soil or rock, or water-covered, and everything annexed to it, whether by nature, as trees, water, etc., or by the hand of man, as buildings, fences, etc. The word when used in a deed includes not only the naked earth, but everything within it, and the buildings, trees, fixtures, fences, stones, minerals, waters, and herbage upon it."

As the word *land* is used here, the conclusion cannot be escaped that anything less than a deed to the land in the fullest sense will not comply with the law. It is at once apparent that a deed to surface rights only is not a deed to a lot or plat of land as the word "land" is used in law.

As the Act is silent on this question, my conclusion is reached as a matter of construction. If by following this opinion hardship will be worked as indicated in your letter, I suggest that you have the Act amended as you may think best.

I remain,

Yours very truly,

ALEX. M. GARBER,  
Attorney General.

September 14th, 1907.

HON. HARRY C. GUNNELS,

*Superintendent of Education,  
Montgomery, Alabama.*

Dear Sir :

On June 14th, 1907, you handed me a letter from Hon. W. H. Storey, County Superintendent of Education of Pickens County, requesting my advice on same. Mr. Storey states that a district in his County desiring to make application for aid in building a school house secured a deed to a plot of land, which deed was duly executed and recorded; and since the recording of the deed the patrons of the property secured have decided not to apply for aid at the present time and are desirous of restoring the title of the land to the original owners and request you to advise them who has authority to convey the land back to such owners.

I find no authority in the Act of March 2nd, 1907, appropriating \$67,000 to aid rural school districts in the State to erect and repair public school houses, for a conveyance of the title required by the State to the land donated as provided in the Act. The land remains the property of the State for the benefit of the school district in question, until there is Legislative authority for the conveyance of the title of the State. Nor am I aware of any statute, other than the Act referred to, giving authority to any officer to convey the title of the State.

I herewith return Mr. Storey's letter.

Yours very truly,

ALEX. M. GARBER,

Attorney General.

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September 14th, 1907.

HON. HARRY C. GUNNELS,

*Superintendent of Education,  
Montgomery, Ala.*

Dear Sir :

On August 8th, 1907, you handed me a letter from Hon. Chas. C. Johnson, County Superintendent of Education of Perry County, and requested me to advise

you in response to Mr. Johnson's letter. It seems that the trustees of District 28, Perry County, conveyed the title of certain land to the State with a view of securing aid in the erection of a school house under the Act of March 2nd, 1907, and afterwards it seemed advisable to the Trustees to sell the land so conveyed to the State with a view of locating a school elsewhere. The deed to the land however, having been duly executed and recorded conveying the same to the State for the benefit of th district in question. The facts are not fully stated in Mr. Johnson's letter and if I have incorrectly stated them, Mr. Johnson can advise you.

On the facts above set forth, I advise you that there is no authority under the Act of March 2nd, 1907, nor under any other law in this State, so far as I can find, for a conveyance of the title acquired by the State to this land, and nothing can be done to that end until a future Legislature sees fit to give such authority.

I herewith return Mr. Johnson's letter.

Yours very truly,

ALEX. M. GARBER,  
Attorney General.

September 27th, 1907.

HON. HARRY C. GUNNELS,  
*Superintendent of Education,  
Capitol.*

Dear Sir:

On the 5th instant, you addressed a communication to me with which you enclosed a letter from Mr. Arthur F. Harman, Superintendent of the New Decatur Public Schools, New Decatur, Alabama, in which Mr. Harman desires to be advised by you whether the school funds for New Decatur for the year 1907-8, will be paid to him by the County Superintendent of Morgan County or paid over by you direct to Mr. Harman under Section 176 of the Act of August 13th, 1907, known as the Municipal Code.

The title of the Act referred to is as follows:

"An act to provide for the organization, incorporation, government and regulation of cities and towns and to define the rights, powers, duties, jurisdiction and authority of such cities and towns and of the officers thereof, and to prescribe penalties for violations of the provisions of this Act."

Section 176 of the Act is as follows:

"Each incorporated city or town, as a special school district or embraced therein shall receive its proportionate share of the public school revenue to be paid over by the State Superintendent of Education direct to the City Superintendent of schools and by him paid over to the treasurer."

After a very careful consideration of the question, I am of opinion that the provision contained in section 176 directing the State Superintendent of Education to pay over to the City Superintendent of Schools of each incorporated city or town the proportionate share of the public school revenue is not a subject expressed in, covered or suggested by the title of the act; or necessary or proper to the full rounding of an enactment upon the subject which is expressed in the title and is, therefore, obnoxious to the requirement of section 45 of the Constitution that "each law shall contain but one subject which shall be clearly expressed in its title."

In the case of *Bell v. State*, 115 Ala. 87, the Court considered an act "to establish a new charter for the City of Huntsville" and held that the provisions of this Act forbidding the prosecution on affidavit before a Justice of the Peace of a person who had already been arraigned before the Mayor for the same act under the City ordinance, was violative of the constitutional provision, to which I have referred. In the course of the opinion, Judge McClellan, speaking for the Court, said:

"The subject to be contained in a bill may be as broad and comprehensive as the Legislature may choose to make it. It may include innumerable minor subjects, provided all these minor subjects are capable of being so combined as to form only one grand and comprehensive subject; and if the title of the bill, containing this grand

and comprehensive subject, is also comprehensive enough to include all these minor subjects as one subject, the bill and all parts thereof will be valid \* \* \*. The grand and comprehensive subject expressed in the title to this act is the charter of the city, the creation of corporate existence and the conferring of corporate powers. Such subject embraces all the minor subjects incident to such corporate existence and powers; and whatever is necessary to a complete municipal charter, or is embraced in the thought contained in the general expression, is a part of the subject expressed, and authorized by the general expression. \* \* \*. But, *to take away from any tribunal, even of the most inferior character, established by general laws and charged with their administration, jurisdiction theretofore conferred to try offenses against the criminal laws of the State, and to confer it exclusively upon an officer of a municipal corporation, is not to provide for the exercise of any function of municipal life nor to confer any power incident to municipal government nor to follow any suggestion which can be referred to the expressed purpose of establishing a municipal charter.*"

In the case of *Black v. State*, 144 Ala. 92, the Court followed the case of *Bell v. State*, supra, and held that a like provision contained in "an act to amend an act to incorporate the town of Geneva," was unconstitutional.

The following cases support the general principle laid down by Judge McClellan in the Bell case:

*Ex rel Gayles*, 108 Ala. 514;

*Bradley v. State*, 99 Ala. 177;

*Glenn v. Lynn*, 89 Ala. 608;

*Mobile v. L. & N.*, 124 Ala. 132-142;

*The State v. So. Ry. Co.*, 115 Ala. 250;

*Ballantyne v. Wickersham*, 75 Ala. 533;

*Ex rel Reynolds*, 87 Ala. 138;

*White v. Boyin*, 113 Ala. 170;

*Montgomery v. State*, 88 Ala. 141;

*Sanders v. State*, 117 Ala. 543;

*Lindsay v. U. S. Asso.*, 120 Ala. 156;

*Covington v. Thompson*, 142 Ala. 90, 111-112.

The title of the act in question may for convenience be divided into three divisions:

(a.) To provide for the organization, incorporation, government and regulation of cities and towns;

(b.) To define rights, powers, duties, jurisdiction and authority of such cities and towns and of the officers thereof;

(c.) To prescribe penalties for violations of the provisions of this act.

Applying the principle of these cases to the case in hand, the subject matter of section 176 does not relate to the organization, incorporation, government and regulation of cities and towns; nor is it a right, power, duty or a feature of the jurisdiction and authority of cities and towns and of the officers thereof, and clearly it has no relation to the last division of the title,—prescribing penalties for violation of the provisions of this act. In analyzing the question with the title in view, it is apparent that the only phase of the title which gives any sort of support to the provision of section 176 is that part of the title which I have set out as division "b," viz: "To define the rights, powers, duties, jurisdiction and authority of such cities and towns and of the officers thereof." And so far from being a right, power or duty of a city, it imposes on the other hand a duty upon the State Superintendent of Education, and would change the entire system of dealing with a large portion of the public school revenue,—in contravention of existing laws on that subject. It also indirectly affects the compensation to which the County Superintendent of Education is entitled under section 3555 of the Code by relieving him of the duty of distributing so much of the public school revenue as would by the proposed system be paid direct to the City. It does not provide for the exercise of any function of municipal life nor does it confer any power incident to municipal government.

The purpose of section 45 of the Constitution, said Chief Justice Brickell in Lindsay vs. U. S. Association, 120 Ala. 156, is among other things, "to fairly apprise the people, through such publication of legislative pro-

ceedings as is usually made of the subjects of legislation that are being considered, in order that they may have the opportunity of being heard thereon by petition or otherwise, if they shall so desire." And further in the same case it is held that "the title must be such, at least, as fairly to support or give a clew to the subject dealt with in the act, and, unless it comes up to this standard, it falls below the constitutional requirement."

The subject matter of this section (176) would never be suggested to the legislative mind from reading or hearing read the caption of this bill; nor is it reasonable to say that the general public was fairly apprised, from the title of the act, under the principles above quoted, that a provision was contained therein which directly affected and changed the duty heretofore imposed by law upon the State Superintendent of Education, as well as the duties and emoluments of County Superintendents of Education in sixty-seven counties.

It follows, therefore, that section 176 of the act under consideration falls to the ground, and there is no authority for you to pay to the Superintendent of public schools of New Decatur the school funds for that City.

In order that no misunderstanding may result, I beg to say that the remaining portions of the municipal code are unaffected by this ruling; for it is well settled that where an act is "complete within itself, sensible, capable of being executed and wholly independent of that which is rejected, the enactment will be upheld and enforced as to that which is valid."

Harper vs. State, 109 Ala. 28.

I beg to remain,

Very respectfully,

ALEX. M. GARBER,  
Attorney General.

October 18th, 1907.

HON. H. Y. BROOKE,  
*Assistant Examiner of Public Accounts,*  
*Capitol.*

Dear Sir:

On the 26th ultimo you requested me to advise you on the following questions:

First. Can a sheriff use a prisoner as a trusty, the prisoner doing such services as cleaning the Court House and Jail, carrying food to prisoners, running errands and performing such other duties as the sheriff may direct about the house, etc., and charge the State with the feed bill for such prisoner.

Second. Have the Superintendents of Education and the School Boards of the County the right to apportion the school money in the districts so as to give white children in one school district thirty cents per capita, and those in other school districts, three dollars per capita.

Answering your questions in the order stated, I beg to say that the sheriff is entitled to a fixed amount for feeding each prisoner in jail under charge or conviction, and there is no provision in the statute (Code section 4565) depriving the sheriff of this compensation where he uses the prisoner as mentioned in your question. Unless the Legislature so declares there is no power or authority for making such deduction.

Section 256 of the Constitution directs that "the public school funds shall be apportioned to the several counties in proportion to the number of school children of school age therein, and shall be so apportioned to the schools in the districts or townships in the counties as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships." As you will observe the funds are apportioned to the counties on a per capita basis, and the school boards of the counties apportion the funds, not on a per capita basis, but in such manner as to provide, *as nearly as practicable, school terms of equal duration in the several districts or townships in the county.*—A large discretion is thus reposed in the county boards, and the pre-

sumption will be indulged that the apportionment as made was necessary to carry out the constitutional requirement.

As the second question above deals with a question relating to the public schools, I am forwarding a copy of this letter to the Superintendent of Education.

Yours very truly,

ALEX. M. GARBER,

Attorney General.

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Montgomery, April 2nd, 1908.

HON. HARRY C. GUNNELS,

*Superintendent of Education,*

*Montgomery, Alabama.*

Dear Sir:

According to information received from your Department, there are about 11,000 District School Trustees in the State of Alabama. I am receiving every day letters from many of these District Trustees from all parts of the State, seeking information on the question of their exemption from the payment of poll tax and their right to vote in the May Primary. This situation, which indicates a condition of uncertainty in the minds of the people on this subject, has induced me to send you this official communication in order that you may send out from your Department the advices contained herein.

Section 3575 of the Civil Code of 1896 is as follows:

"Township Trustees are exempt from road duty, jury duty and poll tax, so long as they shall continue in office and perform the duties thereof; and the certificate of the County Superintendent of Education shall be evidence of the fact."

The Constitution of Alabama of 1901, provides that "To entitle a person to vote at any election by the people, he shall have \* \* \* paid on or before the first day of February next preceding the date of the election at which he offers to vote all poll taxes due from him for the year 1901, and for each subsequent year." (Constit-

tution, Section 178.) It further declares that "the poll tax mentioned in this Article shall be one dollar and fifty cents upon each male inhabitant of the State, over the age of 21 years, and under the age of 45 years, who would not now be exempt by law." (Constitution, Section 184.)

The present Constitution of Alabama was ratified on November 28th, 1901. On that date, and for many years prior thereto, the statute (Code Section 3575) was in force which exempted Township Trustees from the payment of poll tax, subject to the conditions prescribed in said section of the Code. Township Trustees being thus exempt from the payment of poll tax at the date of the ratification of the Constitution, they were not required to pay the poll tax in order to qualify as an elector.

The Redistricting Act of September 30th, 1903, abolished the Township lines for school purposes and retained Township Trustees under the provisions of the then existing law only for the purpose of selling and leasing the Sixteenth Section School lands. The said Act also created a local board of three District Trustees for each District to be elected by the qualified electors thereof, and defined the duties of such District Trustees, which are practically the same as the duties of the Township Trustees under the old law.

On March 13th, 1906, my predecessor in office rendered an official opinion to the State Superintendent of Education, in which he held that the District Trustees, created under the general Redistricting Act, were exempt from the payment of poll tax, inasmuch as they were exempt under Section 3575 of the Code but therein called Township Trustees and that the mere change of the name, their duties being but slightly changed, could not operate to defeat the exemption. From the date of the announcement of this opinion—March 13th, 1906—I am informed by you that the Department of Education, acting under the authority of this opinion has uniformly advised District Trustees over the State that they were under the law exempt from the payment of poll tax. I think the ruling of the Attorney-General's

Department above referred to should be regarded as authority for the exemption of such District Trustees from the payment of poll tax and no District Trustee should be challenged at the Primary on May 18th, on the ground that he has failed to pay such tax.

It will also be a matter of importance to the District Trustees who will be elected on the first Saturday in July, 1908, to be advised of the fact that the new Code, which will become effective on May 1st, 1908, abolishes entirely Township Trustees, omits Section 3575 of the Code of 1896, and contains, as far as I have been able to discover after careful examination, no provision exempting District School Trustees, under the general law from road duty, jury duty, and poll tax.

This will effect a change in the status of District Trustees in respect to the payment of poll tax and on October 1st, 1908, they will be liable for the payment of such tax, and will also be subject to road duty and jury duty.

I remain,

Yours very truly,

(Signed) ALEX. M. GARBER,

Attorney General.

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